

(2025) 06 RAJ CK 0380

In the Rajasthan High Court, Jodhpur Bench

Case No : Criminal Revision Petition No. 1163 Of 2014, Connected With Criminal Revision Petition No. 1164 Of 2014, No. 1165 Of 2014

Lakshita Marketing

APPELLANT

Vs

State And Anr

RESPONDENT

Date of Decision : 17-06-2025

Acts Referred:

Essential Commodities Act, 1955 — Section 2, 2(A), 3, 6(A)
Oilfields (Regulation and Development) Act, 1948 — Section 5, 6

Citation : (2025) 06 RAJ CK 0380

Hon'ble Judges : Munnuri Laxman, J

Bench : Single Bench

Advocate : Simran Mehta, Falgun Buch, Gopal Krishna Chhangani, Suniel Purohit, Nitesh Mathur

Final Decision : Disposed of

Judgement

Farjand Ali, J

1. These three revision petitions have been filed on behalf of the petitioner, M/s Lakshmi Marketing & M/s H. Gangara, Singhi assailing the common judgment dated 30.06.2014 passed in Criminal Revision Nos.290/2013, 291/20213 & 09/2014 by the learned Sessions Judge, Bikaner, in the exercise of revisional jurisdiction, whereby the order taking cognizance dated 22.03.2013 passed by the learned Special Judicial Magistrate (NI Act) No.1, Bikaner in three separate complaint Nos.260/2013, 261/2013 & 262/2013 were quashed and set aside.

2. With the consent of learned counsel for both parties, all three matters—being factually and legally similar—were heard together and are being disposed of by this common order.

3. Briefly stated, the facts relevant for the adjudication of these petitions are as follows:

3.1. The petitioner, M/s Lakshmi Marketing & M/s H. Gangaram, being the

complainants in all three criminal complaints, instituted a prosecution under Section 138 of the Negotiable Instruments Act, 1881, alleging that the accused-respondent Narayan Vyas issued cheques which were dishonoured by the bank upon presentation, with the endorsement indicating "insufficient funds" or "exceeds arrangement." Upon dishonour of the cheques, legal notices were duly issued and served upon the accused, demanding payment of the cheque amount. Despite the service of such notices and lapse of the statutory period, no payment was made by the accused, compelling the complainant to initiate proceedings under the NI Act.

3.2. The Learned Magistrate, after perusal of the complaints and supporting documents—including the dishonoured cheques, bank memos, legal notices, and postal receipts—formed a prima facie opinion that the allegations disclosed a cognizable offence under Section 138 of the NI Act. Accordingly, the Magistrate took cognizance and ordered issuance of process against the accused.

3.3. These orders of cognizance were later challenged by the accused-respondents in revision before the Learned Sessions Judge, Bikaner. Vide impugned judgment dated 30.06.2014, the learned Sessions Judge allowed the revision petitions and set aside the order taking cognizance passed by the Trial Magistrate.

4. I have heard learned counsel for the parties and carefully examined the impugned revisional order as well as the record of the case.

4.1. Before proceeding to analyze the legality of the revisional court's findings, it is essential to reiterate the well-settled legal position that taking cognizance of an offence merely implies the formal application of judicial mind to the allegations made in the complaint and supporting material for the purpose of proceeding further in the matter. At this preliminary stage, the Court is not required to determine the guilt or innocence of the accused, nor is it expected to undertake a detailed scrutiny of the evidence. The probative value of defence material is irrelevant at this stage and must be evaluated only at the appropriate stage of trial.

4.2 In the present case, the Learned Magistrate had perused the complaints and supporting materials annexed thereto. The documents indicated that cheques were issued by the accused-respondents, which were dishonoured for insufficient funds. Legal notices were duly issued and served, and no payment was made within the statutory time frame. These prima facie facts were sufficient to justify taking cognizance and issuing process. However, the learned Sessions Judge, while allowing the revision petitions, set aside the order taking cognizance primarily on the grounds that:

- The amount involved was substantial;
- There was no specific mention in the complaints about the exact date on which the loan or financial transaction took place;

- The circumstances under which the amount was advanced by the complainant to the accused were not clearly explained.

Furthermore, the Revisional Court went on to examine whether the cheques were issued in discharge of any legally enforceable debt or liability. It concluded that the absence of such specific averments cast doubt on the legality of the transaction and thus found the complaints insufficient for the purpose of taking cognizance.

4.3. This Court is of the view that, such a detailed examination of the factual matrix and merits of the case was uncalled for at this stage. The findings recorded by the learned Sessions Judge relate to matters which are essentially triable issues and ought to be adjudicated only after the commencement of trial, affording both parties the opportunity to lead evidence.

4.4. The complainants are entitled to explain, during the course of trial, the circumstances under which the loan was advanced and the cheques were issued. Similarly, the accused will have full opportunity to cross-examine the complainants on such aspects and to adduce evidence in defence, if so advised, to prove that the cheques were not issued in discharge of any legal liability.

4.5. By setting aside the order of cognizance at this threshold stage, the Revisional Court has pre-empted a trial on merits and exceeded the jurisdiction vested in it under the Criminal Procedure Code. It is well-settled that at the stage of cognizance, the court must only examine whether a prima facie offence is made out—not whether the prosecution is ultimately likely to succeed.

5. I am, therefore, of the considered view that the Learned Sessions Judge, Bikaner, acted beyond the scope of revisional jurisdiction by engaging in an unwarranted scrutiny of factual aspects which are subject to trial and erroneously setting aside well-reasoned orders of cognizance passed by the Magistrate.

6. In view of the above discussion, these revision petitions are allowed. The impugned judgment dated 30.06.2014 passed by the learned Sessions Judge, Bikaner in Revision Petition Nos.290/13, 291/13, and 09/14 are hereby quashed and set aside.

6.1. Consequently, the order dated 22.03.2013 passed by the learned Judicial Magistrate taking cognizance and issuing process against the accused-respondent in Criminal Case Nos. 260/2013, 261/2013 & 262/2013 are affirmed and restored. The Learned Trial Court is directed to proceed further in accordance with law. The record be sent back forthwith.

Caution: It is made clear that this Court has refrained from expressing any opinion on the merits of the case. Any observation made hereinabove is limited solely for the purpose of justifiable disposal of the present revision petitions and shall not prejudice the parties at any stage of the trial.