

Bounced cheque Company need not be accused

In a case of bounced cheque, it is not necessary to complain specifically against the company if the managing director is the sole proprietor. It is enough if the MD alone is made the accused under the Negotiable Instruments Act, the Supreme Court stated in its judgment, Mainuddin Abdul Sattar vs Vijay Dalvi. The Bombay High Court view opposed to this was wrong and it was set aside by the apex court. In this case, real estate firm Salvi Infrastructure Ltd could not provide a flat to its customer, and the customer wanted the money back.

The MD issued a cheque to discharge the liability but it was dishonoured by the bank, leading to a criminal complaint before the magistrate. He dismissed the complaint as the complaint was only against the MD and not against the firm. This view was upheld by the high court. The Supreme Court held that both the courts were wrong. There was no necessity for the payee to prove that the MD was in charge of the daily affairs of the company, by virtue of the position he held in this case.

Therefore, he was ordered to be taken into custody immediately to undergo five months' simple imprisonment. He was also asked to pay compensation which would be double the cheque amount with nine per cent simple interest.

(Business Standard)