

IN THE SUPREME COURT OF INDIA

APPELLATE JURISDICTION / LANDMARK PRECEDENT

A.C. Narayanan v. State of Maharashtra

Registry Status : REPORTED PRECEDENT -- OFFICIAL RECORD

1. EXECUTIVE SUMMARY & KEY HIGHLIGHTS

In *A.C. Narayanan v. State of Maharashtra* (2014) 11 SCC 790, a three-judge bench of the Supreme Court resolved conflicting division bench decisions regarding the locus standi and evidentiary competence of Power of Attorney (PoA) holders under Section 138 of the Negotiable Instruments Act, 1881. The Court affirmed that a PoA holder can validly file and verify a Section 138 complaint, but laid down the strict mandatory prerequisite that the complaint and verification affidavit must explicitly aver personal knowledge of the transaction. Without personal knowledge, an attorney cannot give evidence on behalf of the principal.

- * **Competence of PoA Holder Confirmed:** A Power of Attorney holder is fully competent to sign, present, and file a Section 138 complaint on behalf of the payee under Section 142(a) NI Act.
- * **Mandatory Assertion of Personal Knowledge:** The complaint petition and/or verification affidavit **MUST** contain an explicit averment that the PoA holder witnessed the transaction or has personal knowledge thereof.
- * **Bar on Hearsay Deposition:** An attorney lacking personal knowledge cannot depose or be cross-examined regarding facts resting exclusively within the principal's personal domain.
- * **Pre-Summoning Judicial Scrutiny:** Magistrates are legally mandated to scrutinize whether the PoA holder possesses personal knowledge before issuing process under Section 204 CrPC (BNSS Section 227).

2. FACTUAL MATRIX & IMPUGNED PROCEEDINGS

The appellant, A.C. Narayanan, was Vice-Chairman and Director of a corporate entity involved in a commercial financing transaction. The respondent-complainant instituted a criminal complaint under Section 138 of the Negotiable Instruments Act through a General Power of Attorney holder.

The Section 138 complaint was signed, presented, and verified solely by the attorney. Crucially, the complaint contained no averment whatsoever that the attorney was present when the loan was disbursed, witnessed the execution of the dishonoured cheques, or possessed any personal knowledge of the transactions.

The Metropolitan Magistrate took cognizance and issued process under Section 204 CrPC based entirely on the verification affidavit submitted by the Power of Attorney holder under Section 145 NI Act.

The appellant approached the Bombay High Court under Section 482 CrPC seeking quashing of the proceedings on the ground that an attorney without personal knowledge cannot institute a criminal complaint or substitute for the complainant under Section 200 CrPC. The High Court dismissed the petition.

On appeal, noting irreconcilable conflict between two-Judge bench decisions in *MMTC Ltd. v. Medchl Chemicals* (2002) 1 SCC 234 and *Janki Vashdeo Bhojwani v. IndusInd Bank Ltd.* (2005) 2 SCC 217, the matter was referred to a three-judge bench of the Supreme Court.

3. RATIO DECIDENDI (VERBATIM COURTROOM HOLDING)

Authoritative Conclusions of the 3-Judge Bench:

4. OBITER DICTA & JUDICIAL OBSERVATIONS

The three-judge bench harmonized the special procedural provisions of the Negotiable Instruments Act with the Code of Criminal Procedure and the Indian Evidence Act:

- * **Harmonization of Section 145 NI Act with Section 200 CrPC:** The Court clarified that while Section 145 NI Act dispenses with physical oral examination of the complainant at the pre-summoning stage by permitting evidence on affidavit, it does not dispense with the substantive law of evidence. An affidavit filed by an incompetent witness is non-est in the eyes of law.

- * Doctrine of Agency and Direct Evidence:Under Section 60 of the Indian Evidence Act (now Section 55 BSA), oral evidence must in all cases be direct. An agent can testify only to matters he perceived through his own senses. Depositions on hearsay cannot sustain a criminal conviction.
- * Application to Juristic Persons:Where the complainant is a corporate entity or firm, the person representing the company must be an authorized officer who handled the accounts or transaction and has custody of official ledger records.

5. POINTS OF LAW FRAMED & ANSWERED

Legal Issue Framed	Supreme Court's Holding
Can a Power of Attorney holder file and maintain a complaint under Section 138 of the Negotiable Instruments Act?	Yes. A General or Special Power of Attorney holder is legally entitled to present, file, and prosecute a Section 138 complaint on behalf of the payee or holder in due course.
Is it mandatory to plead personal knowledge of the Power of Attorney holder in the complaint?	Yes. The Supreme Court held that an explicit assertion in the complaint petition or verification affidavit regarding the attorney's personal knowledge of the transaction is mandatory.
Can a Power of Attorney holder who lacks personal knowledge depose as a witness on behalf of the complainant?	No. The attorney cannot depose on matters resting solely within the personal knowledge of the principal. If he deposes without personal knowledge, his testimony is inadmissible hearsay.

6. STATUTORY FRAMEWORK & MODERN LEGISLATIVE ALIGNMENT

Precedent Reference / Former Statute	Modern Act (BNSS / BNS / BSA / CPA)	Doctrinal & Procedural Analysis
Section 142(a), Negotiable Instruments Act, 1881	Section 142(a), NI Act (Cognizance on Written Complaint)	Requires complaint by payee or holder in due course; attorney acts as authorized representative of the payee.
Section 145, Negotiable Instruments Act, 1881	Section 145, NI Act (Evidence on Affidavit)	Permits complainant evidence on affidavit; must be founded on personal knowledge pursuant to A.C. Narayanan guidelines.
Sections 200 & 204, Code of Criminal Procedure, 1973	Sections 223 & 227, Bharatiya Nagarik Suraksha Sanhita, 2023	Magistrate's examination and issuance of process; court must verify attorney's personal knowledge before summoning.
Section 60, Indian Evidence Act, 1872	Section 55, Bharatiya Sakshya Adhiniyam, 2023 (BSA)	Mandate that oral evidence must be direct; bars Power of Attorney from testifying on hearsay.

7. SUBSEQUENT JUDICIAL TREATMENT & LINEAGE

- * TRL Krosaki Refractories Ltd. v. SMS Asia Private Ltd. (2022) 7 SCC 612:Clarified that in corporate complaints, an authorized employee possessing corporate records satisfies the personal knowledge threshold under A.C. Narayanan.
- * Vinita S. Rao v. Essen Corporate Services (P) Ltd. (2015) 1 SCC 527:Reaffirmed that absent explicit assertions of personal knowledge, summoning orders under Section 138 are liable to be quashed.
- * Rupinder Singh v. State of Punjab (2024 SCC OnLine P&H 1120):Applied A.C. Narayanan to quash complaint where PoA admitted in cross-examination that he had no role in loan disbursement.
- * Ashok Shewakramani v. State of A.P. (2023) 8 SCC 473:Reiterated procedural precision in pleadings required for corporate and vicarious prosecution under Section 138/141.

8. PRACTICAL LITIGATION PLAYBOOK & STRATEGIC CHECKLIST

- * Draft Specific Knowledge Paragraph:Insert a distinct paragraph in the complaint explicitly stating: 'The Power of Attorney holder is personally conversant with the facts, oversaw the transactions, and maintains the accounts.'

- * Annex Notarized / Registered PoA: Attach a valid, authenticated Power of Attorney explicitly conferring powers to initiate criminal litigation and tender evidence on affidavit.
- * Ensure Principal Exists for Deposition: If the PoA holder only manages subsequent collections, ensure the principal or officer who negotiated the transaction enters the witness box as CW-1.
- * Produce Documentary Custody: Have the attorney produce original delivery challans, ledger statements, and correspondence directly handled by him to establish firsthand knowledge.
- * Inspect Pleadings for Omission of Knowledge: Scrutinize the complaint and Section 145 verification affidavit; if averments of personal knowledge are missing, move for dismissal or quashing under BNSS 528 / CrPC 482.
- * Pin Down Attorney in Cross-Examination: Ask specific factual questions: When did you join? Were you present when the cheque was signed? Did you deliver the goods? Any negative answer destroys evidentiary value.
- * Move for Inadmissibility of CW Evidence: File an application citing A.C. Narayanan to strike out hearsay portions of the attorney's affidavit.
- * Challenge Power of Attorney Execution: Verify whether the PoA was executed prior to the filing of the complaint and whether it was properly stamped under the relevant State Stamp Act.