

Negotiable Instruments Act, 1881, S. 138 - Companies Act, 2013 S. 56(1) - Criminal Procedure Code, 1973, S. 482 - Dishonour of cheques - Burden of proving that there is no existing debt or liability, is to be discharged in the trial - Transactional arrangement between the parties reveals the nature of obligations that both had undertaken - Cheques were accepted by the complainant for an agreed price consideration, for the shares in the appellant's company - Per Section 56(1) of the Companies Act, 2013 a transfer of securities of a company can take place only when a proper instrument of transfer is effectuated - Operation of legally transferring shares firstly requires a [contract](#) of sale to be entered upon, and payment of the price by the prospective transferee to fulfil their promise first - In exchange, transferor would move to fill Form SH-4 and thus, effectuate a valid instrument - In shares transactions, there is a time lag between money going out from the buyer and shares reaching to the seller - Burden of proving that there is no existing debt or liability, is to be discharged in the trial. [Para 9, 10]

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Negotiable Instruments Act, 1881 S. 138 - Criminal Procedure Code, 1973 S. 482 - Dishonour of cheques - Quashing - Burden of proving that there is no existing debt or liability, is to be discharged in the trial - The legal presumption of the cheque having been issued in the discharge of liability must also receive due weightage - In a situation where the accused moves Court for quashing even before trial has commenced, the Court's approach should be careful enough to not to prematurely extinguish the case by disregarding the legal presumption which supports the complaint - Whenever facts are disputed the truth should be allowed to emerge by weighing the evidence - When there is legal presumption, it would not be judicious for the quashing Court to carry out a detailed enquiry on the facts alleged, without first permitting the trial Court to evaluate the evidence of the parties - The quashing Court should not take upon itself, the burden of separating the wheat from the chaff where facts are contested - To say it differently, the quashing proceedings must not become an expedition into the merits of factual dispute, so as to conclusively vindicate either the complainant or the defence.

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