
ONE TRANSACTION, MANY CHEQUES: HARMONIZATION OF CONSOLIDATED COMPLAINTS UNDER SECTION 138 OF THE NEGOTIABLE INSTRUMENTS ACT

Sanskriti Sharma, University of Mumbai Law Academy

ABSTRACT

In India the cheque jurisprudence under Section 138 of the *Negotiable Instruments Act, 1881* (“NI Act”) has evolved substantially over the past few decades and now stands as a compelling example of the dynamic and interpretative role that the judiciary plays in reconciling statutory rigidity with the commercial realities. Section 138 of the NI Act was designed to promote reliability in monetary transactions by criminalizing the dishonour of cheques issued in discharge of debts or liabilities. However, over the years, the intersection between this penal provision and procedural law, particularly, under Sections 219 and 220 of the *Code of Criminal Procedure, 1973* (“CrPc”) has raised various complex questions to the bar and the bench regarding the multiplicity of complaints when multiple cheques issued under a single transaction are dishonoured.

While the strict statutory language of Section 138 treats each dishonoured cheque as an independent offence that generates a distinct cause of action, however, the judiciary has progressively evolved a pragmatic doctrine of consolidation of various cheques issued during a same transaction or “arising out of the same cause of action”. This consolidation doctrine recognizes that when several cheques stem from one financial arrangement or by/through a continuous obligation then a single complaint is both permissible and preferable. This interpretation by the judiciary seeks to balance the protection of creditors’ rights against the undue harassment of the accused persons through repetitive prosecutions.

This paper undertakes a comprehensive jurisprudential analysis of this evolution. The paper shall also seek to understand doctrinal approach that has been adopted by the courts to analyse and understand the “same cause of action” in certain cases. The paper begins with a theoretical exploration of the concepts of “cause of action” and “same transaction” through the lens of criminal law, followed by a thorough assessment of the legislative intent behind the Section 138 and its interface with CrPC provisions. Thereafter, it examines key judicial pronouncements from the Supreme Court and High Courts, especially in the backdrop of the recent pronouncement of the J&K

High Court in *Fayaz Ahmad Rather v Tariq Ahmad* (2025) various other cases such as *Damodar S Prabhu v. Sayed Babalal* (2010) and *Gimpex Pvt. Ltd. v. Manoj Goel* (2021) shall be reviewed and discussed. The paper also incorporates an analysis of procedural modernizations introduced by the *Bhartiya Nagrarik Suraksha Sanhita, 2023* ("BNSS"), and the digital transformation under the *Information Technology Act, 2000*, ("IT Act") both of which fortify the procedural infrastructure in India for expeditious trials.

In culmination, the present research paper shall argue that the judicial acceptance of the consolidated complaints arising under the same transaction reflects a jurisprudential maturity that aligns the statute with the broader goals of efficiency, proportionality, and fairness in the criminal justice system. Furthermore, by permitting a unified complaint to be filed for multiple cheques arising out of the same cause of action, the Indian courts have not only harmonized commercial certainty with equitable procedural justice but have also steered Section 138 enforcement towards a more efficient and humane framework.

I. INTRODUCTION: THE EVOLUTION OF CHEQUE JURISPRUDENCE IN INDIA

The introduction of Section 138 into the *Negotiable Instruments Act, 1881* through the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988, was a legislative response to the alarming erosion of faith in cheque-based transactions in the Indian economy.¹ This section was specifically added into the legislative laws to penalize the dishonour of cheques that were issued to discharge off a legally enforceable debt or liability, thereby it infuses greater credibility into the negotiable instruments such as cheques as substitutes for cash.² However on one hand when the legislative aim was clear in respect to deter wilful default by imposing criminal liability, however, on the other hand, the practical operations of this provision has led to various interpretive complexities when it concerns to multiple dishonoured cheques arising from a single transaction.

Through the jurisprudential trajectory of Section 138 it has been observed that various courts have continually adapted a balanced approach in statutory interpretation to meet evolving commercial and procedural realities. When a literal reading of the provision is done, it suggests that each dishonoured cheque constitutes a separate offence, generating an independent cause of action.³ Yet, in practice, such an interpretation can result in multiplicity of proceedings,

¹ Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988, No. 66 of 1988, § 4 (India)

² Statement of Objects and Reasons, Negotiable Instruments (Amendment) Bill, 1988, para. 3.

³ K. Bhaskaran v. Sankaran Vaidhyan Balan, (1999) 7 SCC 510.

procedural abuse, and harassment of the accused when numerous cheques are issued under one financial understanding. The tension between literal construction and purposive interpretation has, therefore, required judicial balancing to preserve both creditor protection and procedural fairness.

From the early years of Section 138's enforcement, Indian courts have struggled when it comes to define the precise contours of "cause of action."⁴ While initial decisions tended toward strict compartmentalization requiring separate complaints for each dishonoured cheque the judiciary soon recognized that commercial transactions are often structured through a series of post-dated cheques representing instalments of a single debt.⁵ This recognition marked the beginning of a doctrinal shift: where cheques emanate from one transaction or liability, courts began to accept that one consolidated complaint could suffice.

This evolution mirrors a broader judicial philosophy that prioritizes substantive justice over procedural formalism. It aligns with the constitutional imperative of speedy trial under Article 21 of the *Constitution of India*, ensuring that legal mechanisms remain instruments of justice rather than tools of harassment.⁶ The gradual development of this jurisprudence also underscores the Indian judiciary's proactive approach in harmonizing commercial law with procedural law to uphold efficiency in financial adjudication.

II. LEGISLATIVE INTENT AND DOCTRINAL FOUNDATIONS OF SECTION 138

The legislative intent in the enactment of Section 138 NI Act was done in the backdrop of the economic necessity that was arising due to the rampant dishonour of cheques which resulted in undermining the commercial reliability of various individuals and institutions.⁷ The legislative intent which is discernible from the 1988 Amendment's Statement of Objects and Reasons, can be best described in a twofold manner: (a) to enhance the sanctity of cheques as instruments of payment; and (b) to create a deterrent against a deliberate default.⁸ However, the provision's intent of criminalizing dishonour of cheques without distinguishing between "separate" and "continuous" transactions gave rise to a very narrow understanding of the

⁴ M.M.T.C. Ltd. v. Medchl Chemicals & Pharma (P) Ltd., (2002) 1 SCC 234.

⁵ Sadanandan Bhadran v. Madhavan Sunil Kumar, (1998) 6 SCC 514.

⁶ Hussainara Khatoon v. State of Bihar, (1980) 1 SCC 81.

⁷ Rangappa v. Sri Mohan, (2010) 11 SCC 441

⁸ Statement of Objects and Reasons, Negotiable Instruments (Amendment) Bill, 1988

application of statute and led to interpretive difficulties leading to multiplicity of complaints.

A bare reading of the statute reveals that each dishonoured cheque satisfies the ingredients of a separate offence, this being in the sequence of: issuance, presentation, dishonour, notice, and failure to pay within fifteen days.⁹ With this simple reading and a much simpler understanding of the statute it can be interpreted that any time a cheque is issued, presented and dishonoured it shall lead to Section 138 being invoked, irrespective of it being issued during the course of the same transaction or done so otherwise. This issue was prominently observed in cases wherein post-dated cheques (“PDC”) where issued and such PDCs where dishonoured. This arose the legal question of whether all such cheques should be consolidated to file a single complaint or will each cheque lead to separate filing of complaints. Nevertheless, the doctrine of consolidation emerged from a purposive reading recognizing that several cheques may collectively represent a single underlying debt. The judiciary’s task has thus been to reconcile statutory structure with transactional realities.

However, on a broader perspective, the legislative framework of Section 138 is further complimented by its subsequent sections, sections 139 and 140 of the NI Act, which establish presumptions in favour of the holder, and by further procedural provisions under Sections 142–147 that creates a special regime for cheque prosecutions.¹⁰ Therefore, these interlinked provisions reflect Parliament’s intent to create a swift, summary process rather than a fragmented prosecutorial exercise.

Interestingly, it should also be noted that the legislature has not expressly clarified on this issue as to whether multiple cheques under a single transaction warrant a single complaint.¹¹ The absence of such clarity has led courts to rely on interpretative tools grounded in *mischief rule* and *purposive construction* doctrine and principles. However, even though the legislation has bestowed the responsibility of interpreting Section 138 by itself, the judicial goal has always been to avoid multiplicity that contradicts the efficiency-oriented spirit of the NI Act while also preserving the penal character of each offence.

This interpretative challenge lies also lies at the intersection of substantive and procedural law in India. While Section 138 defines the offence, the CrPC governs procedural consolidation of

⁹ Section 138, Negotiable Instruments Act, 1881 (India).

¹⁰ Sections 139–147, id.

¹¹ Kaushalya Devi Massand v. Roopkishore Khore, (2011) 4 SCC 593.

offences. On the other hand, sections 219 and 220 of CrPC limit joint trials to three offences of the same kind within one year and allow consolidation when offences form part of the same transaction.¹² Therefore, when multiple cheques arise from a single contract or financial arrangement or transaction, judicial reasoning treats them as forming part of the same transaction which allows one consolidated complaint to be filed and further also allows for joint trial to be conducted under these provisions.

Thus, by reading the NI Act harmoniously with the CrPC, various courts have avoided technical fragmentation and have fulfilled the legislative intent through functional interpretation. The emerging judicial consensus that can be observed through the multiple judgements of both the High Courts and the Supreme Court provide a clear picture and clarity that multiplicity of complaints for cheques drawn from one cause of action defeats legislative purpose and burdens both litigants and courts.

III. THEORETICAL UNDERPINNINGS: CAUSE OF ACTION AND CONSOLIDATION

The principle of “cause of action” in criminal proceedings differs in meaning from its civil counterpart. In civil law, a cause of action in most literal sense refers to an entire bundle of facts which entitles a plaintiff to a relief. Contrastingly, in criminal law, the cause of action denotes the composite factual matrix that constitutes the offence.¹³ Therefore, each dishonoured cheque, when is read literally, creates a distinct factual situation that in its own independent capacity satisfies the statutory ingredients of Section 138. Yet, jurisprudentially, Indian courts have recognized that the essence of the wrong lies not merely in the mechanical dishonour but in the breach of one underlying liability.¹⁴

This shift in paradigm in the approach of the Indian Courts which is seen in the movement from formalism to functionalism format of approach aligns with the doctrine of *same transaction* under Section 220 CrPC. The Hon’ble Supreme Court, in *State of Andhra Pradesh v. Cheemalapati Ganeswara Rao* (1963), has previously held that offences are part of the same transaction when they are connected by proximity of time, place, or continuity of purpose.¹⁵ And when this reasoning is applied to a cheque dishonour case, wherein multiple

¹² Sections 219–220, Code of Criminal Procedure, 1973 (India).

¹³ *State of Rajasthan v. Sohan Lal*, AIR 2004 SC 1489.

¹⁴ *Sampelly Satyanarayana Rao v. Indian Renewable Energy Development Agency Ltd.*, (2016) 10 SCC 458.

¹⁵ *State of A.P. v. Cheemalapati Ganeswara Rao*, AIR 1963 SC 1850

cheques represent instalments or parts of one debt, their dishonour constitutes one continuous transaction rather than discrete offences.

Observing from a jurisprudential perspective, this method of consolidation promotes *substantive justice* and prevents abuse of process.¹⁶ It also mitigates through the penal harshness that the accuse may have to suffer due to repetitive prosecutions. This also upholds the core principle and the compensatory nature of Section 138, whose ultimate objective is recovery, not incarceration.¹⁷ The courts, therefore, in shaping this principle, have implicitly invoked the *doctrine of proportionality* in such matters and have ensured that the criminal law's coercive power is exercised in a manner that commensurate with the nature of the wrong.

Furthermore, this doctrine also reinforces the constitutional value of judicial economy and judicial time. This was significantly observed by the Supreme Court in its suo motu case on *Expeditious Trial of Cases under Section 138 of the NI Act* (2021) wherein the Hon'ble court acknowledged the overwhelming pendency of cheque dishonour cases and heavily emphasized the need for procedural consolidation of cheques.¹⁸ Therefore, by treating multiple cheques of arising from one transaction as part of the same cause of action, courts will be able to not only expedite justice but also uphold Article 21's guarantee of speedy trial for both the parties.

Thus, the theoretical justification for consolidation under Section 138 rests on three main pillars: (a) fidelity to the concept of *same transaction* under the CrPC; (b) preservation of proportionality and fairness in criminal law; and (c) promotion of judicial economy consistent with constitutional values.

IV. JUDICIAL INTERPRETATION AND THE EVOLUTION OF CONSOLIDATED COMPLAINTS

Over the years, the judicial construction of Section 138 NI Act has seen a gradual transition from literalism to pragmatism. When earlier the courts treated each dishonoured cheque as a distinct offence it led to creation of a procedural rigidity. However, over time, the courts began recognising the transactional unity that, in certain situation and cases, united the multiple cheques and thereby, allowed for a consolidation of such cheques. This approach and

¹⁶ Subramanium Sethuraman v. State of Maharashtra, (2004) 13 SCC 324.

¹⁷ Meters and Instruments (P) Ltd. v. Kanchan Mehta, (2018) 1 SCC 560

¹⁸ In Re: Expeditious Trial of Cases under Section 138 of the Negotiable Instruments Act, 1881, (2021) 6 SCC 523.

understanding led to the prevention of multiplicity of cheques and cases that arose from them in the courts but also minimised undue harassment of the accused. This development and approach, however, is a direct result of various Supreme Court and High Court pronouncements, which together form the corpus juris of consolidation jurisprudence under Section 138 in India.

A. Early Judicial Approach: Strict Construction and Multiplicity

The early post-1988 jurisprudence of Section 138 adhered to a textual reading. Courts viewed each cheque as giving rise to a separate offence, irrespective of whether they were issued under the same contractual obligation.¹⁹ In *Sadanandan Bhadran v. Madhavan Sunil Kumar* (1998), the Supreme Court underscored the self-contained nature of the cause of action for every dishonour, holding that a complaint must correspond to a specific cheque.²⁰ This approach, although doctrinally neat, generated practical hardship.

Similarly, the Kerala High Court in *Krishna Exports v. State of Kerala* (1995) held that each dishonoured cheque constitutes a distinct criminal wrong, and consolidation would dilute the statutory structure.²¹ This decision resulted in procedural congestion due to which the litigants were compelled to file several complaints for cheques issued in a series of the same transaction, thereby resulting in fragmented adjudication and inconsistent outcomes.

The rigidity of this interpretation, however, soon came under criticism. Legal scholars and practitioners highlighted that such multiplicity undermined the NI Act's very objective speedy recovery through summary criminal process.

B. Transition to Purposive Interpretation: The Compensatory Turn

The seminal judgment in *Damodar S. Prabhu v. Sayed Babalal H.* (2010) marked the judiciary's decisive pivot from punitive to compensatory understanding of Section 138.²² The Supreme Court observed that multiplicity of complaints for cheques issued in a single transaction "causes tremendous harassment and prejudice to the drawer." The Court directed

¹⁹ K. Bhaskaran v. Sankaran Vaidhyan Balan, (1999) 7 SCC 510.

²⁰ *Sadanandan Bhadran v. Madhavan Sunil Kumar*, (1998) 6 SCC 514.

²¹ *Krishna Exports v. State of Kerala*, 1995 Cri LJ 2071 (Ker).

²² *Damodar S. Prabhu v. Sayed Babalal H.*, (2010) 5 SCC 663.

that complainants must affirm, through affidavit, that no other complaint has been filed for the same liability.

This decision fundamentally altered the prosecutorial landscape. It recognized the compensatory essence of Section 138 meant not to criminalize debtors *per se*, but to ensure payment discipline.²³ By discouraging multiple prosecutions, *Damodar S. Prabhu* implicitly introduced the doctrine of consolidation into cheque jurisprudence.

The Court further institutionalized proportionality by prescribing graded costs for compounding at different litigation stages, reinforcing that the primary object is restitution rather than retribution.²⁴

C. Consolidation and Settlement: *Gimpex Private Limited v. Manoj Goel* (2021)

In *Gimpex Pvt. Ltd. v. Manoj Goel*, the Apex Court had refined the contours of “same cause of action”. The Hon’ble Court distinguished between cheques issued in discharge of original liability and those issued pursuant to settlement.²⁵ The Court also went on to hold that once parties enter a settlement deed containing a payment schedule through fresh cheques and due to some reason there happens to be dishonour of those cheques, then in such scenario the dishonour of cheques would generate a *new cause of action* distinct from the original liability. Thereby, making parallel prosecutions on both sets of cheques would therefore be impermissible.

This judgment reinforced the principles of finality and good faith that is observed in a commercial compromise. It also clarified that Section 138 prosecutions must not become tools for multiple recovery attempts or a mode for harassment and causing stress to the accused.²⁶ In doing so, the judgement in *Gimpex* balanced creditor protection with fairness to the drawer, thereby harmonizing the NI Act with the principles of criminal justice.

D. Expedited Trial *Suo Motu* Case (2021): Systemic Reform

The judicial policy of consolidation received its legitimacy and recognition through the

²³ Id. at ¶7–8.

²⁴ Id. at ¶20–23 (laying down the compounding scheme).

²⁵ *Gimpex Pvt. Ltd. v. Manoj Goel*, (2021) 8 SCC 387.

²⁶ Id. at ¶31–33.

Supreme Court's suo motu case *In Re: Expeditious Trial of Cases under Section 138 NI Act* (2021).²⁷ Wherein faced with over 35 lakh pending cases, the Hon'ble Court took it upon itself to conduct a systemic review and thereby recommended certain legislative and procedural reforms. It emphasized upon the following through its judgement:

1. **Consolidation of complaints** where multiple cheques arise from the same transaction;
2. **Electronic service of summons** to accelerate proceedings;
3. **Affidavit-based evidence** under Section 145 NI Act;
4. **Mediation and pre-trial settlement mechanisms**; and
5. **Legislative amendment of Section 219 CrPC** to allow trial of more than three offences of the same kind in one proceeding.²⁸

This judgment acted as the final nail in the coffin in cases related to consolidation doctrine wherein the courts earlier were approaching the cases in case-specific reasoning and provided them a structural reform by upholding the principle of consolidation. The Court's directions now serve as procedural benchmarks for subordinate courts across India.

E. Contemporary Affirmations: *Fayaz Ahmad Rather v. Tariq Ahmad Wani* (J&K HC, 2025)

The Jammu & Kashmir High Court has recently in *Fayaz Ahmad Rather v. Tariq Ahmad Wani* (2025), has given one of the most recent and authoritative exposition on consolidated complaints.²⁹ The Court has held that when multiple cheques are issued under one contractual transaction and a **single legal notice** is issued that covers all such dishonours then in such a situation, there exists only **one cause of action**. The court then went on to hold that in such a situation, the filing of one complaint, therefore, shall satisfy the legal requirement under Section 138.

The Court has also interpreted Sections 219 and 220 CrPC thoroughly to justify the joint trial,

²⁷ *In Re: Expeditious Trial of Cases under Section 138 of the Negotiable Instruments Act, 1881*, (2021) 6 SCC 523.

²⁸ *Id.* at ¶14–16.

²⁹ *Fayaz Ahmad Rather v. Tariq Ahmad Wani*, 2025 SCC OnLine J&K 54.

further suggesting statutory amendment to remove the cap of three offences per trial.³⁰ Therefore, by emphasizing “unity of purpose and design,” that the courts should look at when interpreting Section 138, the judgment aligns with Supreme Court’s purposive doctrine and further strengthens the jurisprudential coherence of consolidation.

F. High Court Consensus: Toward Uniform Judicial Policy

Parallel to the recent J&K decision, several other jurisdictions such as Delhi, Karnataka, Punjab & Haryana, and Bombay have now through multiple judgments upheld the principle of consolidation as the judicially preferred practice. Furthermore, the Delhi High Court has in *Unique Infoways Pvt. Ltd. v. MPS Telecom Pvt. Ltd.* held that multiple dishonoured cheques issued under one transaction form part of the same cause of action, and thus a single complaint is maintainable.³¹ The Hon’ble Court also invoked Section 220 CrPC to substantiate that offences “committed in the course of the same transaction” may be jointly tried.

Similarly, the Bombay High Court has also opined that convenience of trial and avoidance of conflicting judgments justify a unified approach.³² Additionally, the judgement of the Karnataka High Court in *A. Adinarayana Reddy v. S. Vijayalakshmi* further upheld that a consolidated complaint prevents multiplicity³³. The Karnataka High Court also relied on the judgement of *Damodar S. Prabhu* to validate this practice. Collectively, therefore, it can be observed that these rulings all signify and reflect an emergent consensus of the judiciary that consolidation promotes fairness, reduces procedural abuse, and serves the NI Act’s remedial objective.

V. INTERACTION OF SECTION 138 NI ACT WITH OTHER STATUTORY FRAMEWORKS

It is essential that the evolution of consolidated cheque-dishonour jurisprudence be appreciated together with other intersecting legal frameworks. The interplay among the NI Act with CrPC, IPC, BNSS 2023, and IT Act 2000 reveals how procedural and technological reforms have collectively modernized cheque enforcement in India.

³⁰ Id. at ¶19–21.

³¹ *Unique Infoways Pvt. Ltd. v. MPS Telecom Pvt. Ltd.*, 2019 SCC OnLine Del 9242

³² *Lalitkumar R. Lakhota v. State of Maharashtra*, 2020 SCC OnLine Bom 252

³³ *A. Adinarayana Reddy v. S. Vijayalakshmi*, 2021 SCC OnLine Kar 1422.

A. CrPC and BNSS: The Procedural Nexus

The *Code of Criminal Procedure, 1973* forms the backbone of procedural regulation in NI Act prosecutions. Sections 219 and 220, governs joinder of charges and provide the statutory foundation for consolidation.³⁴ On one hand, section 219 allows for a joint trial of up to three offences of the same kind committed within twelve months, while on the other hand section 220 authorizes a joint trial for offences forming part of the same transaction. Therefore, the judicial application of these provisions to Section 138 offences is both creative and necessary and in accordance with law that helps in bridging substantive and procedural law.

Furthermore, the recently enacted *Bhartiya Nagarik Suraksha Sanhita, 2023* (“BNSS”), which has replaced the CrPC, fortifies this procedural nexus.³⁵ It institutionalizes the “digital bharat” concept by providing access to electronic summons service, digital case management, and mandatory mediation frameworks. All these mechanisms thus, directly assist in addressing the various systemic delays that occur in cheque-dishonour prosecutions. The BNSS further embodies the Supreme Court’s 2021 recommendations by encouraging consolidation where offences share transactional continuity or history.³⁶

Together, CrPC and BNSS represent a continuum of procedural adaptation that helps in ensuring that the adjudicatory machinery aligns with commercial dynamism and technological transformation that can be adopted in the judicial framework to assist the judiciary.

B. Indian Penal Code and Criminalization of Fraudulent Intent

Pertinently, while section 138 targets financial delinquency, certain factual matrices invoke parallel charges under the *Indian Penal Code, 1860* primarily sections 406 (Criminal Breach of Trust) and 420 (Cheating).³⁷ Courts have in such a scenario however, exercised caution in permitting such joint or parallel proceedings. Notably, in *Alpic Finance Ltd. v. P. Sadasivan* (2001), the Hon’ble Supreme Court had issued its concerns against converting mere contractual breaches into criminal offences under the IPC provisions.³⁸

³⁴ Sections 219–220, *Code of Criminal Procedure, 1973* (India).

³⁵ *Bhartiya Nagarik Suraksha Sanhita, 2023*, No. 45 of 2023 (India)

³⁶ Id. § 269; see also *In Re: Expeditious Trial of Cases under Section 138 of the NI Act*, (2021) 6 SCC 523.

³⁷ Sections 406–420, *Indian Penal Code, 1860* (India).

³⁸ *Alpic Finance Ltd. v. P. Sadasivan*, (2001) 3 SCC 513

Nevertheless, the courts have noted that when fraudulent intent is evident at the inception of the transaction, concurrent prosecution under IPC and NI Act remains justified.³⁹ Therefore, it can be said that, the IPC supplements rather than supplants Section 138 thereby enabling courts to distinguish between bona fide commercial default from deceitful conduct.

C. Information Technology Act, 2000: Digital Transformation of Evidence

Lastly, the *Information Technology Act, 2000* has revolutionized the evidentiary dimension of cheque prosecutions. Section 65B of the *Indian Evidence Act, 1872*, which stood amended by the IT Act, enabled admissibility of electronic records, which included digital bank statements, electronic fund transfers, and even scanned images of cheques.⁴⁰ Furthermore, the recent replacement of the Indian Evidence Act, 1872 done by the *Bhartiya Sakshya Adhiniyam, 2023* has further cemented the provisions of admissibility of electronic records and together read with the NI Act, it provides concrete steps that are to be followed by the parties during the adjudication, from its initiation to the end.

Thus, modern jurisprudence in India now acknowledges electronic dishonour memos and online communications as valid proof under Section 138.⁴¹ This digital admissibility complements the consolidation doctrine by simplifying the procedural formalities and fostering of the expeditious adjudication.

Moreover, this is also in lieu of the Supreme Court's endorsement of e-service of summons and digital filing through its *Expeditious Trial* directions which has synergized IT law with cheque jurisprudence, ensuring that the technological modernization of India also reaches the criminal process.⁴²

VI. COMPARATIVE JURISPRUDENCE: PARALLELS AND DIVERGENCES

It is essential that a comparison of Indian jurisprudence be made to international courts and their interpretations of such cases as comparative perspectives illuminate how India's cheque-dishonour regime, which though is unique in its mixed civil-criminal character, reflects upon

³⁹ S.W. Palanitkar v. State of Bihar, (2002) 1 SCC 241.

⁴⁰ Section 65B, Indian Evidence Act, 1872 (as amended by Information Technology Act, 2000).

⁴¹ State of Delhi v. Mohd. Afzal, 2003 SCC OnLine Del 1100.

⁴² In Re: Expeditious Trial of Cases under Section 138 of the NI Act, (2021) 6 SCC 523.

the broader global trends of decriminalising yet maintaining and enforcing a strict adherence towards the payment discipline.

A. Common-Law Analogues

In the United Kingdom, a cheque dishonour constitutes a civil wrong under the *Bills of Exchange Act, 1882*, which is enforceable and can be pursued through an ordinary debt-recovery suits.⁴³ In the UK, the criminal liability attaches only in cases of proven fraud under the *Fraud Act, 2006*.⁴⁴ Similarly, this trend can be observed in other commercial jurisdictions such as Singapore and Hong Kong, wherein dishonoured cheques attract civil recovery actions but not penal sanctions. India, thus, remains among the few jurisdictions retaining criminal prosecution for cheque dishonour.

This comparative anomaly has prompted several scholarly debates on the applicability of proportionality principle and constitutional justification of penal sanctions for commercial defaults.⁴⁵ However, the Indian judiciary has been till now been successful in rationalizing section 138 as a pragmatic deterrent rather than it being a punitive excess. This has been done by arguing that the criminal process and layer ensures credibility of negotiable instruments in a credit-driven economy as that of India.⁴⁶

B. South-Asian Experience

Looking not far but adjacently, in our neighbouring jurisdictions, particularly Bangladesh, Sri Lanka, and Pakistan, it is observed that they have drawn heavily from the Indian NI Act. The *Negotiable Instruments (Amendment) Ordinance, 2020* of Bangladesh explicitly allows consolidated prosecution for cheques arising from the same transaction.⁴⁷ Furthermore, Pakistan's courts have similarly interpreted Section 489-F of its Penal Code to allow aggregation of cheques if issued under a singular commercial engagement.⁴⁸

Therefore, these comparative reforms substantiate India's judicial decisions of consolidation, thereby demonstrating regional convergence toward efficiency and fairness in cheque

⁴³ Bills of Exchange Act, 1882, 45 & 46 Vict. c. 61 (U.K.).

⁴⁴ Fraud Act, 2006, c. 35 (U.K.).

⁴⁵ R. Goode, Commercial Law 1080–85 (5th ed. 2016).

⁴⁶ K. Bhaskaran v. Sankaran Vaidhyan Balan, (1999) 7 SCC 510.

⁴⁷ Negotiable Instruments (Amendment) Ordinance, 2020 (Bangl.).

⁴⁸ Muhammad Aslam v. State, PLD 2018 Lah 122.

enforcement.

VII. THEORETICAL AND PRACTICAL LACUNAE

Despite jurisprudential progress as seen till now, there are still several doctrinal ambiguities and procedural hurdles that continue to afflict Section 138 prosecutions.

A. Conceptual Ambiguity in “Same Transaction”

The expression “same transaction,” which remains pivotal for invoking Section 220 CrPC, lacks a proper statutory definition. Courts have therefore, applied several tests of proximity of time, unity of purpose, and continuity of action to access the applicability of “same transaction” in any case.⁴⁹ Yet these remain fact-specific and subjective issues, which in turn leads to inconsistent determinations across the courts. As was observed and noted by the Supreme Court in its *suo motu* case, it is also necessary that a statutory clarification be given in instances wherein the PDCs are issued, or multiple cheques have led to one consolidated legal notice. This perhaps can shed more light on codification parameters such as *same consideration, same payee, and same contractual nexus* in cases of Section 138.

B. Procedural Fragmentation and Over-Criminalization

Even with consolidation of cheques as adopted by certain jurisdictions, Section 138 prosecutions still constitute nearly 20% of India’s total criminal docket.⁵⁰ This arises due to multiple cases involving small-value cheques therefore raising questions of proportionality and resource allocation. The punitive framework as adopted and practised in India, often compels settlement through coercive arrest or threat of conviction, contradicting restorative justice principles.⁵¹

C. Execution and Enforcement Deficit

It is also to be noted that, although Section 143A of the NI Act allows for interim compensation and notably, section 148 authorizes appellate deposit, the enforcement of these sections still remain weak. Convictions frequently lapse at execution stage leading to undermining

⁴⁹ State of Andhra Pradesh v. Cheemalapati Ganeswara Rao, AIR 1963 SC 1850

⁵⁰ Ministry of Law & Justice, Report on Pending Cheque Bounce Cases (2021).

⁵¹ Law Commission of India, Report No. 213: Fast Track Magisterial Courts for Dishonoured Cheques (2008).

deterrence. Throughout the decades, the Law Commission has repeatedly recommended civil-quasi-criminal hybrids such as summary recovery through garnishee orders, yet with such suggestions pending, the legislative inertia continues to persist in our legal system.⁵²

VIII. JUDICIAL TRENDS AND FUTURE DIRECTION

The consolidation jurisprudence of India exemplifies the judiciary's adaptive creativity and present and futuristic approach of flexibility in interpreting the statutes. Courts have also started to increasingly encourage mediation and compounding at pre-trial stages in criminal cases. Example can be taken from the Supreme Court's findings in *Expeditious Trial* wherein several guidelines were issued to institutionalize this hybrid model wherein settlement before conviction obviates punitive sanction.⁵³ This reflects a shift of the judiciary from penal enforcement to dispute-resolution frameworks that preserve business relationships and also encourage dispute resolution mechanisms that can lessen the pressure and docket of the courts.

Furthermore, the integration of e-Courts services, procuring and processing of digital evidence, and virtual hearings under BNSS is revolutionizing Section 138 trials.⁵⁴ E-summons, online payment portals, and AI-based case-allocation systems are assisting the courts in minimizing human error and delay. Incorporation of technology is therefore, complementing consolidation by ensuring seamless coordination among multiple complaints arising from one transaction.

Given the overwhelming judicial consensus, legislative codification of the consolidation principle appears inevitable. A simple amendment clarifying that multiple cheques issued under a single liability constitute one cause of action could resolve persistent ambiguity and promote nationwide uniformity.⁵⁵

X. CONCLUSION

The doctrine of consolidation under Section 138 of the Negotiable Instruments Act epitomizes the Indian judiciary's capacity for purposive evolution. From the rigid compartmentalization of the 1990s to the pragmatic convergence of the 2020s, courts have progressively humanized

⁵² Id. at 11–15

⁵³ In Re: Expeditious Trial of Cases under Section 138 of the NI Act, (2021) 6 SCC 523

⁵⁴ Bhartiya Nagarik Suraksha Sanhita, 2023, §§ 269–272 (India).

⁵⁵ Law Commission of India, Consultation Paper on Decriminalization of Minor Economic Offences (2020).

and streamlined cheque-dishonour prosecutions.

Consolidation serves not merely procedural economy but constitutional justice by balancing Article 21's guarantee of speedy trial with the creditor's right to restitution. As *Gimpex* and *Fayaz Ahmad Rather* affirm, judicial creativity has filled legislative voids to preserve commercial faith. However, several challenges such as conceptual ambiguity, procedural backlog, and over-criminalization still persist and demand a structural reform.

The future of Section 138 jurisprudence thus lies in calibrated hybridization of integrating civil recovery, digital enforcement, with limited criminal sanction. With legislative clarification and technological modernization, India can finally transform cheque enforcement from a punitive relic into a restorative instrument of commercial justice.