Cheque issued after company dissolution is void; Section 138 proceedings against former director are not maintainable :

The High Court held that a cheque issued in the name of a company after its dissolution is void ab initio (invalid from the outset) and cannot give rise to an offence under Section 138 of the Negotiable Instruments Act, 1881.

Key findings:

- The company had already been dissolved on the date the cheque was issued.
- A dissolved company ceases to exist as a legal entity and therefore cannot validly issue a cheque.
- Since the cheque itself was legally void, its subsequent dishonour could not constitute an offence under Section 138.
- Consequently, criminal proceedings against the former director based on such cheque were not maintainable.
- However, the Court clarified that the complainant is free to pursue any other legal remedies available under law for recovery of dues.

Key Takeaway

For a prosecution under Section 138, the cheque must be issued by a legally existing entity. A cheque issued on behalf of a dissolved company is unenforceable and cannot be the basis for criminal liability against its former directors or officers.