

**Sr. No. 32**

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case No.: CRM(M) No. 323/2023
CrIM Nos. 1608/2024,
2033/2024 & 598/2023

Date of Pronouncement:- 13.02.2026
Uploaded on:- 16.02.2026

Deepak Bawa Sharma

.... Petitioner (s)

Through: - Mr. Dinesh Dogra, Advocate vice
Mr. Vishal Goel, Advocate.

V/s

Asif Iqbal

.....Respondent(s)

Through: - Mr. Aseem Sawhney, Sr. Adv. with
M/S Harsh Singh &
Anil Kumar, Advocates.
Mr. S H Rather, Advocate.

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**ORDER**

1. Heard learned counsel for the parties at length and perused the record.
2. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter, "*Cr.P.C*"), seeking quashing of complaint proceedings pending before the Trial Court under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter, "*the Act*").
3. The factual matrix, as emerging from the record, reveals that the respondent/complainant instituted a complaint under Section 138 of



the Act, alleging dishonour of cheque to the tune of ₹35,00,000/-. It is stated that the petitioner was engaged in construction of villas at Sainik Colony, Jammu, and the complainant had booked one villa for a consideration exceeding ₹35,00,000/- which transaction failed to fructify. In discharge of the alleged liability, the petitioner is stated to have issued a cheque of ₹35,00,000/-, which, upon presentation, was dishonoured, resulting in initiation of proceedings under Section 138 of the Act.

4. The record further indicates that the petitioner has appeared before the Trial Court, participated in the proceedings, and cross-examined the complainant's witnesses. It is not in dispute that cognizance of the offence was taken and when put with the accusation's u/s 251 Cr.P.C, to which the petitioner responded that he does not plead guilty, without raising any specific plea that the cheque in question was issued merely as security or that the underlying liability had already been discharged.
5. The principal contention raised in the present petition is that the cheque was not issued in discharge of any legally enforceable debt or liability but was given only as a security instrument, which has allegedly been misused by the complainant. It is further contended that no subsisting liability existed at the time of presentation of the cheque.
6. At this juncture, it is apposite to note that proceedings under Section 138 of the Act are governed by the statutory presumption contained in Sections 118 and 139 of the Act, which operate in



favour of the holder of the cheque unless rebutted by the accused during trial. The question whether a cheque was issued by way of security or in discharge of a legally enforceable debt is essentially a matter of evidence and cannot ordinarily be adjudicated in proceedings under Section 482 Cr.P.C.

7. The scope of interference under Section 482 Cr.P.C is well-settled. The inherent powers vested to this court are to be exercised sparingly, with circumspection, and only in cases where continuation of proceedings would amount to abuse of the process of law or where the complaint does not disclose any offence. In the present case, the complaint, on its face, discloses the ingredients constituting an offence under Section 138 of the Act. The petitioner has not demonstrated that the complaint has been filed with mala fide intent or for an oblique purpose so as to warrant quashing at the threshold.
8. Even if the plea of the petitioner that the cheque was issued as security or that the liability stood discharged is taken at face value, such pleas are matters of defence, which the petitioner is at liberty to establish before the Trial Court by leading appropriate evidence. This Court, in exercise of inherent jurisdiction, cannot undertake an appreciation of disputed questions of fact or conduct a mini-trial.
9. Having regard to the above discussion, this Court is of the considered view that no case is made out for exercise of inherent jurisdiction under Section 482 Cr.P.C. The petition is devoid of merit.



10. Accordingly, the present petition is *dismissed* along with connected applications, if any. The Trial Court shall proceed with the complaint in accordance with law and endeavour to dispose of the same expeditiously.
11. Interim directions, if any, shall stand vacated. The record, if summoned, be returned forthwith. *Ordered accordingly.*

(SANJAY PARIHAR)
JUDGE

JAMMU
13.02.2026
Ram Krishan

Whether the order is speaking? Yes

Whether the order is reportable? No

