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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

132 **CRM-M-21239-2026 (O&M)**
Date of decision: 08.05.2026

Atul Vig **...Petitioner**

Versus

Hunny Singh Ahluwalia and another **...Respondents**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ritesh Aggarwal, Advocate
for the petitioner. (Through VC)

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MANISHA BATRA, J. *(Oral)*

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 *(for short 'BNSS')* seeking quashing of criminal complaint bearing No. 7329 of 2024 titled as ***Hunny Singh Ahluwalia v. Atul Vig***, filed under Section 138 read with Section 142 of Negotiable Instruments Act, 1881 *(for short 'NI Act')* which is pending before the Court of Judicial Magistrate First Class, Gurugram along with all the subsequent proceedings having arisen therefrom.

2. Brief facts of the case relevant for the purpose of disposal of present petition are that the aforementioned complaint has been filed by the respondent No. 1/complainant on the allegations that the petitioner had taken a friendly loan of Rs. 49 lakhs from him in multiple tranches between March, 2023 to October, 2023 and, in discharge of the said liability, he issued two cheques amounting to Rs. 29 lakhs and Rs. 20 lakhs, respectively. Upon presentation, the said cheques were dishonoured with the remarks "Payment

Stopped by Drawer". A legal notice was issued to the petitioner by the complainant calling upon him to make the aforesaid payment but he failed to do so, thereby compelling the complainant to file the impugned complaint.

3. On considering the preliminary evidence produced by the respondent/complainant, the learned trial Magistrate summoned the petitioner to face trial for commission of offence punishable under Section 138 of the N. I. Act. The petitioner has prayed for quashing of the complaint as well as subsequent proceedings having emanated therefrom.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in the impugned complaint, which is nothing but a gross abuse of the process of law. The complainant has alleged advancement of a friendly loan of Rs. 49 lakhs in multiple tranches over a period of nearly eight months. However, neither the complaint nor the legal notice discloses the specific dates, number of instalments, mode of payment or any documentary proof regarding the alleged advancement of such a huge amount. Learned counsel submits that during cross-examination, the complainant admitted that the entire amount was allegedly paid in cash, sometimes in sums of Rs. 2 lakhs and sometimes Rs. 3 lakhs, despite being aware that cash transactions beyond the permissible limit are impermissible under law. The complainant further admitted that no receipt, promissory note or contemporaneous document was executed at the time of the alleged advancement of loan, thereby rendering the entire story wholly improbable and unbelievable.

5. It is further argued by learned counsel for the petitioner that the loan agreement dated 20.10.2023 itself falsifies the case of the complainant

inasmuch as the complainant admitted in cross-examination that the alleged loan amount had already been paid prior thereto and that the said agreement was executed subsequently. It is further argued that the cheques in question were never issued towards discharge of any legally enforceable debt or liability. Rather, the same were allegedly obtained by the complainant through coercion and intimidation in connection with a failed property transaction relating to a property situated at DLF City, Phase-I, Gurugram. Learned counsel submits that the petitioner had entered into an agreement to sell as GPA holder of one Samir Gupta and, when the deal could not materialize, the complainant forcibly procured blank signed cheques from the petitioner by threatening him with dire consequences. In support of the said plea, reliance has been placed upon the police complaint dated 03.02.2024 lodged by the petitioner prior to institution of the complaint under Section 138 of the N.I. Act. With these broad submissions, it is urged that the petition deserves to be allowed and the impugned complaint deserves to be quashed.

6. This Court has heard the submissions made by learned counsel for the petitioner.

7. At the outset, it is to be considered as to whether, the prayer made by the petitioner for quashing of complaint can be considered by this Court in a petition filed under Section 528 of BNSS. The Hon'ble Supreme Court has laid down certain conditions whereby the complaint can be quashed by invoking the powers under Section 482 of Cr.P.C. *(which corresponds to Section 528 of BNSS)* in a case reported as ***Smt. Nagawwa Vs. Veeranna Shivalingappa Konjalzi and others (1976) 3 SCC 736*** which are as follows:-

(i) Where the allegations made in the complaint or the statements of the witnesses recorded in support of the same, taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused;

(ii) where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the accused;

(iii) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or inadmissible; and

(iv) where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like.

8. In view of the above discussed proposition of law, it is explicit that a complaint can be quashed by this Court by invoking powers under Section 528 of BNSS, however at the same time, it is also to be kept in mind that the inherent jurisdiction under Section 528 is to be exercised sparingly and with caution only when such exercise is justified by the test specifically laid down in the section itself. It is well settled proposition of law that an appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of this power and the inherent powers so vested do not confer any arbitrary jurisdiction upon the High Court to act according to whims and caprices.

9. On applying the above mentioned proposition of law to the facts of the present case, it is to be seen as to whether the complaint as lodged by

the respondent is liable to be quashed or not? The main thrust of the arguments address by learned counsel for the petitioner is that the cheques in question were not issued towards discharge of any legally enforceable debt or liability, rather, the same were procured forcefully from him on account of some fraudulent property transactions. However, on going through the record, this Court is of the considered opinion that the contention as raised by learned counsel for the petitioner has no substance in view of the fact that at this stage, he has neither denied his signatures on the cheque in question nor the factum of issuance thereof. Moreover, once the issuance of cheque and signatures thereupon are not disputed, the statutory presumptions under Sections 118 and 139 of the N.I. Act come into operation in favour of the complainant and the question as to whether the cheques were issued towards discharge of a legally enforceable debt or were allegedly procured under coercion is essentially a matter of evidence, which can only be adjudicated upon during the course of trial. Although, the petitioner has sought to rely upon a complaint allegedly submitted to the police on 03.02.2024 alleging that the disputed cheques had been procured forcibly by the respondent, however, there is nothing on record to show that the petitioner ever pursued the said complaint before any higher authority or competent forum, nor is there any material to indicate that any action whatsoever was taken by the police on the basis thereof. In the absence of any supporting material, the plea raised by the petitioner appears to be a disputed question of fact requiring appreciation of evidence and cannot be examined by this Court while exercising inherent jurisdiction under Section 528 of BNSS. Keeping in view the aforesaid facts and circumstances, this

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Court is of the considered opinion that no ground for quashing the impugned complaint has been made out. Accordingly, finding no merit in the petition, the same is hereby dismissed.

[MANISHA BATRA]
JUDGE

08.05.2026
Waseem R. Ansari

1. Whether speaking/ reasoned : Yes/No
2. Whether reportable : Yes/No