2026:PHHC:098006

CNR No. PHHC010230732022

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-10083-2022 (O&M)

Nazim Khan **...Petitioner**

Versus

State of Punjab and another **...Respondents**

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	07.07.2026
2	The date when the judgment is pronounced	22.07.2026
3	The date when the judgment is uploaded on the website	22.07.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Nikhil Anand, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

Mr. Rajesh Bhatheja, Advocate
for respondent No. 2.

MANISHA BATRA, J.

1. Prayer in this petition has been made for quashing of Complaint bearing No. 9678 of 2021, titled as ***Rohit Jhanji v. Nazim Khan @ Nazim Naseem Khan***, filed under Section 138 of the Negotiable Instruments Act, 1881 *(for short 'N. I. Act')* read with Section 420 of IPC as well as for quashing of summoning order dated 20.07.2021 along with all the proceedings having emanated therefrom.

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned complaint has been filed by the respondent No. 2 Rohit Jhanji/complainant alleging therein he was employed with M/s Vallabh Textile Limited, Ludhiana, whereas the petitioner, proprietor of M/s G.M. Exports, Mumbai, was a regular customer of the said company and had been purchasing goods from it. It is alleged that the petitioner was liable to pay a sum of Rs.9,00,000/- to M/s Vallabh Textile Limited and Rs.4,50,000/- to the respondent. It is further alleged that since M/s Vallabh Textile Limited owed Rs.9,00,000/- to the respondent, it authorised the respondent through an e-mail to recover the said amount from the petitioner. Thereafter, a tripartite agreement dated 04.12.2018 was executed amongst the respondent, the petitioner and M/s Vallabh Textile Limited, whereby the petitioner allegedly acknowledged his total liability of Rs.13,50,000/- towards the respondent and agreed to discharge the same by issuing post-dated cheques in instalments. According to the complaint, the cheques initially issued by the petitioner in the year 2019 were dishonoured due to insufficiency of funds. Upon the petitioner's request for additional time, the respondent refrained from initiating legal proceedings. Subsequently, the petitioner allegedly issued six post-dated cheques, all dated 17.04.2021, amounting in aggregate to Rs. 12,50,000/-, drawn on IDBI Bank, Mumbai, in favour of the respondent towards discharge of his alleged liability. The respondent presented the said cheques for encashment through his banker, DCB Bank, Ludhiana. However, all the cheques were returned unpaid vide return memos dated 20.04.2021 with the remarks "Funds Insufficient". Thereafter, the respondent issued a statutory

legal notice dated 29.04.2021 calling upon the petitioner to make payment of the cheque amounts within the prescribed period. However, despite service of the legal notice, the petitioner neither made payment of the cheque amounts nor sent any reply thereto, thereby compelling the respondent/complainant to file the aforementioned complaint.

3. On the basis of the preliminary evidence produced before it, the learned trial Court observed that a *prima facie* case for commission of offence punishable under Section 138 of the N. I. Act had been made out against the petitioner for summoning him as an accused and issued process.

4. It is argued by learned counsel for the petitioner that the impugned complaint and the summoning order are not sustainable in the eyes of law. The respondent-complainant had no *locus standi* to institute the complaint as the alleged liability, if any, was towards M/s Vallabh Textiles Company Limited and not towards the respondent in his personal capacity. The respondent was merely an employee (Marketing Manager) of M/s Vallabh Textiles Company Limited and all business transactions were between the petitioner and the said company. The petitioner had never entered into any independent financial transaction with the respondent nor owed him any legally enforceable debt. The security cheques in question had been handed over to M/s Vallabh Textiles Company Limited during the course of business and have been misused by the respondent to initiate the present proceedings. The entire complaint rests upon a purported tripartite agreement dated 04.12.2018, which is itself devoid of any legal sanctity. It is argued that the agreement was never executed on behalf of M/s Vallabh Textiles Company Limited as it does not

bear the signatures of any authorised representative or official of the company. No resolution of the Board of Directors was ever passed authorising the respondent to recover any amount on behalf of the company or assigning the company's alleged receivables in his favour. In the absence of such authorisation, the respondent could not claim to be the payee or holder in due course of the cheques in question.

5. It is further argued by learned counsel for the petitioner that immediately upon receiving the complaint, the petitioner lodged a complaint before the Superintendent of Police, Panipat alleging that his signatures on the agreement had been forged and that a fabricated document had been produced before the trial Court. When no action was taken, the petitioner approached this Court by filing ***CRM-M-5507-2022***, pursuant to which directions were issued to decide his representation. The enquiry conducted pursuant to the said directions itself demolishes the complainant's case. During the enquiry, the respondent admitted that the agreement dated 04.12.2018 bore only his signatures and those of the petitioner and the Notary and that neither Sh. Vikram Jain nor any authorised representative of M/s Vallabh Textiles Company Limited had signed the agreement. Likewise, Sh. Suresh Gupta, whose name appeared on the agreement on behalf of the company, categorically stated that he had never signed the document and had no knowledge of its execution. These admissions clearly establish that the respondent had no authority to recover the alleged dues of the company or to prosecute the complaint under Section 138 of the Negotiable Instruments Act.

Learned counsel further submits that there are material inconsistencies in the complainant's own version. While the complaint and the agreement allege that a sum of Rs. 9,00,000/- was due to M/s Vallabh Textiles Company Limited, the respondent's statement before the police refers to an outstanding amount of Rs. 8,31,957/-. It is also pointed out that the respondent admitted that he had ceased to be an employee of M/s Vallabh Textiles Company Limited in the year 2017, whereas the alleged agreement is dated 04.12.2018. Moreover, neither the complaint nor the agreement discloses the basis on which the petitioner allegedly owed Rs. 4,50,000/- personally to the respondent, thereby failing to disclose the existence of any legally enforceable debt in his favour. Since the respondent was neither authorised by the company nor the holder of any legally enforceable debt, the essential ingredients of Section 138 of the N. I. Act are absent. With these broad submissions, it is urged that the complaint as well as the summoning order deserve to be quashed as continuation of the criminal proceedings would amount to abuse of the process of the Court.

6. Reply has been filed by the respondent No.2/complainant. In terms of the same, learned counsel for respondent No. 2 has argued that the cheques in dispute, which were issued by the petitioner in order to discharge his legally enforceable liability, had been dishonoured on their presentation before the bank. The ingredients of offence punishable under Section 138 of the N. I. Act were duly attracted against the petitioner. There is no infirmity or illegality in the impugned summoning order.

7. It is further argued by learned counsel for respondent No. 2 that the petitioner had earlier approached this Court by filing ***CRM-M-5507-2022***, pursuant to which the Superintendent of Police, Panipat, was directed to

consider his representation dated 13.10.2021. During the enquiry conducted by the Superintendent of Police, respondent No. 2 appeared and produced the relevant record, whereas the petitioner deliberately failed to appear or produce any material to dispute his signatures on the agreement dated 04.12.2018. The enquiry concluded that the dispute between the parties was purely monetary in nature and that respondent No. 2 was already pursuing his legal remedies for recovery of the amount. The said complaint filed by the petitioner was intended only to exert pressure upon the complainant. Accordingly, no action was recommended on the petitioner's complaint. Moreso, the petitioner had acknowledged his liability by executing the agreement dated 04.12.2018 and had issued six cheques towards discharge of the said liability. The questions raised regarding the execution of the agreement and other factual aspects are matters of evidence, which can only be adjudicated by the trial Court after the parties lead evidence and cannot be examined in proceedings under the inherent jurisdiction of this Court. Hence, it is urged that the petition is liable to be dismissed.

8. This Court has heard the rival submissions.

9. The principal contention raised on behalf of the petitioner is that respondent No.2 had no *locus standi* to institute the complaint as the alleged liability was towards M/s Vallabh Textile Limited and not towards him personally. It has further been argued that the tripartite agreement dated 04.12.2018 is not legally enforceable as it does not bear the signatures of any authorised representative of M/s Vallabh Textile Limited and that the respondent was never authorised by the company to recover its alleged dues.

The petitioner has also relied upon the enquiry conducted pursuant to the directions issued by this Court in CRM-M-5507-2022 to contend that the respondent himself admitted that no authorised representative of the company had signed the agreement. In the considered opinion of this Court, none of the aforesaid submissions can be accepted at this stage. A perusal of the complaint reveals that the complainant has specifically pleaded that the petitioner had acknowledged his liability by executing the agreement dated 04.12.2018 and, in discharge of the said liability, had issued six cheques in favour of respondent No.2. The complaint further discloses that upon presentation, the said cheques were dishonoured for the reason "Funds Insufficient", whereafter a statutory notice was served upon the petitioner, who failed to make payment within the stipulated period. Thus, on the face of the averments made in the complaint and the preliminary evidence led in support thereof, the essential ingredients constituting an offence punishable under Section 138 of the N. I. Act stand prima facie disclosed.

10. The defence sought to be projected by the petitioner essentially revolves around the validity of the agreement dated 04.12.2018, the authority of respondent No.2 to recover the amount, the absence of signatures of authorised representatives of M/s Vallabh Textile Limited, the alleged forgery of the agreement and the existence or otherwise of a legally enforceable debt in favour of respondent No.2. All these issues are seriously disputed questions of fact which cannot be adjudicated while exercising the inherent jurisdiction of this Court. Their determination would necessarily require appreciation of oral

and documentary evidence and examination of the witnesses produced by the respective parties, which is the exclusive domain of the learned trial Court.

11. Equally devoid of merit is the contention founded upon the enquiry conducted by the Superintendent of Police pursuant to the earlier directions issued by this Court. The findings recorded in such an enquiry are neither binding upon the criminal Court nor can they substitute a judicial determination after appreciation of evidence. Statements recorded during such an enquiry cannot be treated as conclusive proof of the petitioner's defence.

12. It also cannot be lost sight of that the complaint specifically alleges that the petitioner himself issued the cheques in favour of respondent No.2 towards discharge of the liability acknowledged by him. Once issuance of the cheques is alleged and the same form the basis of the complaint, the statutory presumptions available under Sections 118 and 139 of the N. I. Act come into operation. Whether such presumptions stand rebutted is again a matter of evidence and cannot be conclusively examined in proceedings under Section 482 Cr.P.C./Section 528 BNSS.

13. The discrepancies sought to be highlighted by learned counsel for the petitioner regarding the quantum of liability, the alleged cessation of employment of respondent No.2 with M/s Vallabh Textile Limited and the absence of particulars regarding the alleged personal liability of Rs.4,50,000/- are all matters touching upon the merits of the prosecution case. Such inconsistencies, even if assumed to exist, cannot by themselves furnish a ground to quash the complaint at the threshold, particularly when the complaint discloses the commission of a prima facie offence.

14. It is well settled proposition of law that if, on the date of issuance of the cheque, a legally enforceable debt or liability exists or the amount mentioned therein has become legally recoverable, the provisions of Section 138 of the N. I. Act stand attracted, as the issuance of the cheque itself represents the subsisting liability. In ***Sripati Singh (since deceased) through his Son Gaurav Singh v. State of Jharkhand and another, 2021 LiveLaw (SC) 606***, the Hon'ble Supreme Court held that even a cheque issued as security cannot be treated as a worthless piece of paper in every circumstance. It was observed that where such cheque has been issued to secure the fulfilment of an obligation and the underlying liability has matured and become payable, the holder is entitled to present the cheque for encashment. If the cheque is dishonoured, the consequences contemplated under Section 138 of the Negotiable Instruments Act would follow notwithstanding that the cheque had initially been issued as a security. Thus, the plea of the petitioner that the cheques were merely security cheques, even if accepted for the sake of argument, would not constitute a ground for quashing the complaint once the complainant asserts that the liability had become due and recoverable on the date of presentation.

15. The scope of interference while exercising inherent jurisdiction to quash criminal proceedings is extremely limited. At this stage, the Court is only required to examine whether the complaint and the material produced in support thereof disclose the commission of a prima facie offence. The Court cannot embark upon a meticulous appreciation of evidence or adjudicate disputed questions of fact by conducting a mini trial. The defences raised by

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the petitioner are available to him before the learned trial Court, where they shall be considered on the basis of the evidence led by the parties.

16. In view of the discussion made above, this Court finds no illegality, perversity or jurisdictional error in the impugned complaint or the summoning order warranting interference in exercise of the inherent powers of this Court. Hence, the petition, being devoid of merit, is accordingly dismissed.

17. Needless to observe that any observations made herein are only for the purpose of deciding the present petition and shall not be construed as an expression on the merits of the case, which shall be adjudicated independently by the learned trial Court on the basis of the evidence adduced before it.

22.07.2026 **(MANISHA BATRA)**
Waseem R. Ansari **JUDGE**

Whether speaking/reasoned	*Yes/No*
Whether reportable	*Yes/No*