CNR No: PHHC010277272026
2026:PHHC:125966

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(120) CRM-M-10673-2026 (O&M)
Date of Decision:**08.09.2026**

M/S HARYANA AGRO FOOD AND OTHERS

… Petitioners

Versus

HAFED KAITHAL THROUGH ITS DISTT. MANAGER

... Respondent

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. K.K. Saini, Advocate
for the petitioner.

Mr. Pawan Girdhar, Senior Advocate with
Mr. Aarush Neeraj Vaid, Advocate
for the respondent.

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VIRINDER AGGARWAL, J. (Oral)

CRM-32664-2026

1. The instant Criminal Miscellaneous Application has been filed under Section 528 of the BNSS, seeking leave to place on record the zimni orders passed in proceedings under Section 482 Cr.P.C., in the form of Annexures A-1 to A-55.

2. Heard on the application.

2.1. For the reasons stated in the application, the same is allowed. The zimni orders are taken on record as **Annexures A-1 to A-55**, subject to all just exceptions.

Main Case

1. The instant Criminal Miscellaneous Petition has been filed under Section 528 of the BNSS, seeking quashing of Complaint Case No.

NACT-1095 of 2019 dated 06.08.2019, pending before the learned Sub-Divisional Judicial Magistrate, Kaithal (**Annexure P-4**), as well as the summoning order dated 26.02.2021 (**Annexure P-5**), whereby the petitioner, along with the other accused, has been summoned to face trial for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, "the NI Act").

2. Briefly stated, the case of the petitioner is that he was running a workshop for repair and manufacture of agricultural implements and had no prior experience in running a rice sheller. He came in contact with Ashok Kumar, partner of M/s Kissan Rice Land, whose rice sheller had been declared defaulter by HAFED. On Ashok Kumar's representation, the petitioner agreed to have the sheller operated in his name under the proprietorship of a newly constituted firm, namely M/s Haryana Agro Foods, and the sheller was accordingly taken on lease for two years. According to the petitioner, the actual management and operation of the rice mill remained with Ashok Kumar and the other partners/sureties, namely Ashok Garg, Sushil, Tarsem Chand, Raj Kumar and Jai Bhagwan, while the petitioner was merely projected as its proprietor. The eight cheques in question were obtained from the petitioner as security, upon assurance of HAFED officials and Ashok Kumar that the same would not be presented for encashment. Subsequently, an FIR under Sections 406, 409 and 420 IPC was registered against the petitioner and others, in which the petitioner remained in custody for about 11 months before being granted regular bail by this Court. HAFED thereafter instituted a recovery

suit for ₹7,02,91,001/- and also initiated proceedings under Section 138 of the NI Act on the basis of the said security cheques.

3. Learned counsel for the petitioner contends that the cheques in question were pre-signed blank cheques, obtained from the petitioner by the partners/sureties of the firm by keeping him completely in the dark as to the underlying transactions. It is submitted that the said cheques were furnished merely as security and have subsequently been misused by the complainant by presenting the same for encashment, despite there being no legally enforceable liability of the petitioner towards the complainant. Learned counsel further submits that the alleged misappropriation of paddy is already the subject matter of an FIR registered under Sections 406 and 420 IPC against the petitioner and other persons. It is also pointed out that the complainant has instituted a civil suit seeking recovery of ₹7,02,91,001/- in respect of the very same alleged liability. It is, thus, contended that the complainant has simultaneously resorted to criminal prosecution under Section 138 of the NI Act, criminal proceedings arising out of the alleged misappropriation and civil proceedings for recovery of the same amount. According to learned counsel, permitting all such proceedings to continue on the same factual foundation would amount to an impermissible multiplicity of proceedings and an abuse of the process of law. It is further argued that the petitioner was merely a nominal/proprietary figure, whereas the actual affairs of the rice sheller were being managed by the other persons associated with M/s Kissan Rice Land. On these premises, learned counsel prays that the impugned complaint and consequential proceedings be quashed.

4. Per contra, learned Senior counsel appearing for the respondent-complainant has vehemently opposed the petition and submitted that the pendency of criminal and civil proceedings arising from the same transaction, by itself, constitutes no ground for quashing a prosecution under Section 138 of the NI Act. It is contended that the cheques admittedly bear the signatures of the petitioner and, therefore, the statutory presumptions arising under the NI Act operate in favour of the complainant, subject to rebuttal in accordance with law. Learned Senior counsel further submits that the plea that the cheques were issued as security, or that they were allegedly misused by the complainant, involves disputed questions of fact which cannot appropriately be adjudicated in proceedings under Section 528 of the BNSS. It is argued that the allegations regarding the petitioner's limited role in the affairs of the firm, the alleged involvement of the other partners/sureties and the circumstances in which the cheques were obtained are matters requiring appreciation of evidence. The filing of an FIR or a recovery suit does not extinguish the complainant's independent statutory remedy under Section 138 of the NI Act, provided the essential ingredients of the offence are otherwise satisfied. Learned Senior counsel accordingly submits that no exceptional circumstance warranting exercise of the inherent jurisdiction of this Court is made out and prays for dismissal of the petition.

5. I have heard learned counsel for the petitioner at considerable length and, with the able assistance rendered, have carefully scrutinized the pleadings, the paper-book and the material placed on record.

5.1. The trial is presently at a nascent stage and, at this preliminary juncture, this Court is not persuaded to conclude that the impugned complaint has been instituted with the oblique motive of wreaking vengeance upon the petitioner or with a view to securing an undue advantage in the pending civil proceedings. It is trite that the inherent jurisdiction of this Court for quashing criminal proceedings is of an exceptional character and is to be exercised sparingly, with circumspection and only in cases where the continuation of the proceedings would manifestly amount to an abuse of the process of law or where, even accepting the allegations in their entirety and at face value, no offence is made out.

5.2. The contours of the jurisdiction under Section 482 Cr.P.C. (now Section 528 of the BNSS) are well settled. The inherent power is not intended to facilitate a meticulous examination of disputed questions of fact or to undertake an appreciation of evidence which properly falls within the domain of the trial Court. The mere existence of an alternative civil remedy, or the pendency of civil proceedings arising from the same transaction, does not, by itself, constitute a ground for interdiction of a criminal prosecution where the allegations prima facie disclose the commission of an offence.

5.3. The Hon'ble Supreme Court, in the oft-cited judgment of ***State of Haryana & Ors. vs. Ch. Bhajan Lal & Ors., 1991 (1) RCR (Criminal) 383***, has authoritatively delineated the parameters within which the extraordinary and inherent jurisdiction for quashing criminal

proceedings may be exercised and has laid down the following illustrative categories:-

> "107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.
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> 1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
> 2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
> 3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

108. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice."

6. In ***M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra (2021) 19 SCC 401***, a Three-Judge Bench of the Hon'ble Supreme Court authoritatively delineated the scope and ambit of the inherent jurisdiction of the High Court under Section 482 Cr.P.C. Reaffirming the settled legal position, the Court held that the power to quash criminal proceedings is extraordinary in nature and is to be exercised sparingly, with great circumspection, and only in exceptional cases, the expression "*rarest of rare*" being employed in a context distinct from that governing the imposition of capital punishment.

6.1. The Hon'ble Supreme Court further held that, while exercising jurisdiction under Section 482 Cr.P.C. for quashing an FIR or criminal proceedings, the High Court is not expected to enter into disputed questions of fact or adjudicate upon the correctness, reliability or genuineness of the allegations levelled in the FIR or complaint. At such stage, the Court cannot examine the defence available to the accused, undertake a meticulous appreciation of evidence, or conduct a mini-trial. Interference would be justified only where the case unmistakably falls within the well-recognised parameters governing the exercise of inherent jurisdiction, particularly those enunciated in ***R.P. Kapur v. State of Punjab AIR 1960 SC 866*** and ***State of Haryana and Others v. Bhajan Lal*** (supra).

7. Tested on the touchstone of the aforesaid settled principles, the present case does not satisfy any of the parameters laid down in ***Ch.Bhajan Lal*** (supra) or ***M/s Neeharika Infrastructure Pvt. Ltd.*** (supra) so as to warrant the exercise of the extraordinary inherent jurisdiction of

this Court. At this stage, there is no material to *prima facie* indicate that the impugned complaint is manifestly *mala fide*, frivolous, vexatious, or actuated by an ulterior motive amounting to an abuse of the process of law. On the contrary, the allegations contained therein disclose the commission of cognizable offences, thereby necessitating a fair, impartial and complete investigation. Judicial interdiction at this incipient stage would, therefore, be wholly unwarranted.

8. It is an admitted position that the petitioner was inducted as a proprietor in the firm and that the cheques in question admittedly bear his signatures. The contention that the cheques were issued by way of security, by itself, cannot furnish a ground for quashing the proceedings under Section 138 of the NI Act, as a cheque initially issued as security may attract the statutory consequences under Section 138 if, on the date of its presentation, it represents a legally enforceable debt or liability and the other statutory requirements stand satisfied. Moreover it is a disputed question of fact which is required to be decided on appreciation of evidence.

8.1. It is equally well settled that the prosecution for an offence under Section 406 of the IPC and proceedings under Section 138 of the NI Act can validly coexist, as the two offences operate in distinct fields and arise from distinct causes of action. The gravamen of an offence under Section 406 of the IPC is the dishonest misappropriation or conversion of property entrusted to the accused, whereas the offence under Section 138 of the NI Act is founded upon the dishonour of a cheque issued towards discharge, wholly or partly, of a legally enforceable debt or liability,

coupled with the failure of the drawer to make payment within the statutorily prescribed period after receipt of the requisite notice. The mere fact that both proceedings emanate from the same underlying transaction does not, therefore, render either of them legally impermissible.

8.2. Likewise, the pendency of civil proceedings for recovery of the amount does not constitute a bar to the continuance of criminal proceedings where the ingredients of the alleged criminal offence are otherwise prima facie disclosed. The remedies available under civil and criminal law operate in different spheres and may, in an appropriate case, be pursued simultaneously. The mere availability or pursuit of a civil remedy cannot, *ipso facto*, efface the criminality alleged or warrant interdiction of a prosecution which otherwise satisfies the statutory requirements.

8.3. Viewed cumulatively, this Court finds that no exceptional circumstance, patent illegality or manifest abuse of the process of law has been demonstrated so as to warrant exercise of the inherent jurisdiction under Section 528 of the BNSS for terminating the criminal proceedings at this nascent stage. The issues sought to be raised by the petitioner, including the circumstances in which the cheques were allegedly issued, their character as security instruments and the existence or extent of the underlying liability, involve matters which are appropriately to be adjudicated by the Trial Court upon appreciation of the evidence. Consequently, without expressing any opinion on the merits of the rival claims or the ultimate liability of the petitioner, the present petition, being devoid of merit, is hereby **dismissed**.

8.4. It is, however, clarified that the observations made here-in-above are confined strictly to the adjudication of the present petition and shall not be construed as an expression of opinion on the merits of the prosecution or the defence set up by the petitioner. The Trial Court shall adjudicate the complaint independently, on the basis of the evidence brought on record and in accordance with law, uninfluenced by any observation contained in the present order.

9. In view of the final disposal of the principal proceedings, all pending miscellaneous or connected applications, if any, arising therefrom or being ancillary thereto, stand disposed of accordingly. No separate or further order is called for in respect thereof.

(VIRINDER AGGARWAL)
JUDGE

08.09.2026
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No