

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Crl LP(S) No. 5/2025

Reserved on: 22.08.2025

Pronounced on: 28.08.2025

J.N Wadhera

.....Appellant(s)

Through: Mr. Sudesh Kumar Sharma, Advocate.

vs

Uttam Singh

..... Respondent(s)

Through: Mr. Vinod Abrol, Advocate.

Coram: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT

(ORAL)

Crl LP(S) No. 5/2025

01. For the reasons stated in the application, coupled with submissions made at bar, same is allowed and leave is granted to the applicant to file appeal against the impugned order.

02. Crl LP(S) No. 5/2025 stands disposed of.

03. Registry to diarize the appeal.

CrIA (AS) No. 08/2025

04. With the consensus of learned counsels for the parties, appeal is taken on board for consideration.

05. Impugned in the present appeal is an order dated 14.02.2025, passed by learned Special Mobile Magistrate Electricity, Jammu [“the trial court”], whereby the complaint titled “*J.N. Wadhera vs. Uttam Singh*”, under Section 138 of the Negotiable Instruments Act, 1881 [N.I Act], preferred by the appellant came to be dismissed for want of evidence.

06. The case of the appellant is that he preferred the aforesaid complaint against the respondent in respect of four cheques; bearing numbers i) 009315 dated 04.08.2015 for Rs. 2,52,000/-; ii) 006900 dated 17.08.2015 for Rs. 1,35,000/-; iii) 009325 dated 08.08.2015 for Rs. 35,000/-; and iv) 009326 dated 08.08.2015 for Rs. 35,000/-, issued by the respondent, in his favour towards discharge of legally enforceable debt. The respondent entered appearance in the trial court, admitted his liability in his statement under Section 242 CrPC on 27.01.2020 and sought time to make the payment of the cheque amounts. It is further case of the appellant that on 29.09.2022, the respondent furnished an undertaking in the trial court to deposit cheque amounts in lump-sum within two months. On 08.01.2025, trial court directed the parties to file affidavits indicating the amount paid/received towards satisfaction of cheques liability, and posted the matter for 08.02.2025.

07. It is submission of the appellant that in the first week of February, 2025, he suffered serious ailment due to liver infection and remained under treatment at Jammu and DMC, Ludhiana, therefore, he could not attend the court hearings only on 08.02.2025 and 14.02.2025, when his complaint came to be dismissed for want of evidence.

08. It is contention of the appellant that on 14.02.2025, initially, his case came to be passed over by the trial court on the request of proxy counsel. On telephonic instructions, the proxy counsel withdrew another case titled "*J.N. Wadhera vs. Bharamjot Kour*" pending in the same court i.e. the trial court and he left the court with the permission of the trial court. However, when his counsel returned at 12.40 p.m., he came to know about the impugned order that his complaint was dismissed, for want of evidence.

09. Appellant is aggrieved of the impugned order on the predominant premise that since trial court had granted two months' time to the respondent to liquidate

the cheque amounts and parties were granted to file respective affidavits regarding payments paid/received and case was never fixed for complainant's evidence, dismissal of the complaint for want of evidence is unjustified.

10. Heard learned counsels for the parties and perused the record.

11. While Mr. Sudesh Kumar Sharma, learned counsel for the appellant, has reiterated the grounds urged in the memo of appeal, Mr. Vinod Abrol, learned counsel for the respondent has defended the impugned order by contending that since appellant/complainant was continuously absent from the court proceedings, trial court was left with no option but to dismiss the complaint and acquit the respondent.

12. The complaint under Section 138 of N.I Act came to be preferred by the appellant in the trial court on 05.10.2015, i.e. about 10 years back. The respondent caused appearance on 21.01.2016, about 09 years back and sought numerous opportunities to settle the matter with the complainant. The trial court record would indicate that respondent succeeded in evading the court proceedings on various occasions and his presence was secured by the trial court by issuance of non-bailable warrants. His bail bonds also came to be forfeited at times. The respondent, thus succeeded in procrastinating the trial to this length of time.

13. Be it noted that respondent-accused not only admitted his liability during the trial, but also made certain payments i.e. Rs. 20,000/- on 03.03.2023, Rs. 5,000/- on 24.07.2023, Rs. 1,000/- on 25.01.2024 and Rs. 5,000/- on 02.04.2024, towards discharge of the liability. On 29.09.2022 i.e. about three years back, the respondent filed an undertaking to liquidate the entire liability within two months. However, learned trial court failed to enforce the said undertaking, for the reasons not coming forth from the trial court proceedings. A perusal of the medical record placed on record by the appellant reflects that he was prevented by sufficient reason for his absence on a couple of hearings in the trial court.

14. Though it is not feasible for the trial courts to prescribe a strict timeline for the disposal of cases, however, it is the effective case management strategies which help the courts to ensure disposal of cases within reasonable timeframes. A judge cannot afford to act as a mere spectator. An active and participatory role in the proceedings would certainly facilitate the court in exercising control over the litigation timeline and contribute towards a qualitative and timely outcome for the parties to the litigation. If the trial court record is glanced over, it appears that case of the appellant has been dealt with and tried in a most insensitive and unprofessional manner. Had learned trial court kept a track of the proceedings and adhered to the timelines prescribed from time to time, the controversy would have been given a quietus long back.

15. Having regard to the conspectus of the case and viewed from any angle, the impugned order, vide which complaint of the appellant came to be dismissed, for want of evidence, is found illegal and preposterous.

16. Thus considered, present appeal is allowed and impugned order is set-aside. Consequently, complaint is restored to the files of the trial court and learned trial court is directed to proceed with the trial and make an endeavour to dispose of the case with expedition, preferably within a period of two months, from the date copy of this order is made available.

17. Disposed of.

(Rajesh Sekhri)
Judge

Jammu
28.08.2025
Abinash

Whether the order is speaking? **Yes**
Whether the order is reportable? **Yes**