

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

CRM(M) 432/2024
CrIM(1012/2024)

NAZIR AHMAD DAR ...Petitioner(s)/Appellant(s).

Through: None

Vs.

FAROOQ WANCHOO. ...Respondent(s).

Through: Mr. Mir Manzoor, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

12.12.2025

1. The matter has been kept awaited for appearance of the petitioner on the last date of hearing.
2. Today also, none appears for the petitioner.
3. It is submitted by the counsel appearing for the respondent that there is no illegality in the order drawn by the Trial Court because the petitioner though initially was arrayed as the only accused in complaint under Section 138 of Negotiable Instruments Act, however, during the trial, it has come in evidence that the cheque stood drawn for account No. 921020015154516 in the name of Gousia House Building Cooperative Limited, Srinagar and that petitioner in the capacity as Chairman of the said Cooperative Society has drawn the cheque in question which s got bounced and lead to the filing of the complaint. That even in 251 Cr PC statement recorded before the Trial Court, the petitioner has

admitted that he has drawn the cheque in the capacity as Chairman of aforesaid Cooperative Society.

4. This Court had occasion to see the record of the Trial Court and given the material available before the Trial Court and the statement given by the petitioner at the stage of 251 Cr PC proceedings, the cheque has been drawn and issued by him as Chairman of the said Cooperative Society, so neither there is any perversity in the order drawn by the Trial Court nor it in any manner prejudices the cause of the petitioner.
5. The Trial Court has categorically returned a reasoned finding and this Court does not find any illegality thereto, even otherwise also, once the cheque is drawn by the petitioner in the capacity as Chairman Gouisa House Building Cooperative Limited, Srinagar, so in terms of 139 NIA, there is presumption that cheque has been drawn in discharge of liability by the person drawn either in his individual capacity or in Cooperative one and once the cheque is drawn in the capacity as Chairman Gouisa House Building Cooperative Limited, Srinagar, no illegality has been committed by the Trial Court in arraying the said Society also as an accused.
6. Though the complainant ought to have been more cautious while drawing the complaint but as the appellant/respondent herein holds the dual position no prejudice is caused to him, whereas in terms of Section 141 of the said Act, the provisions of the Act have been

secured for sustaining the credibility of commercial transaction resulting into the enactment of Section 138 and 141 of NIA, which provisions expose a person to criminal liability if payment is not made within the statutory period and the person incharge in business of the company or society as the case may be has got to be arrayed as an accused.

7. Keeping that in view, I see no illegality in the order impugned and given the fact that petitioner herein is not interested in due prosecution of this petition. That also shows that petition has been filed only for the sake of filing without any inclination to peruse it.
8. Consequently the petition lacks merit, and, is, therefore, *dismissed* along with connected CMPs.
9. Trial Court to proceed ahead in accordance with law.
10. Disposed off as such.

(SANJAY PARIHAR)
JUDGE

SRINAGAR
12.12.2025
“S.Nuzhat”