



2025:UHC:2243

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 983 of 2024

26 March, 2025

Tasleem Ahmad

--Petitioner

Versus

Ashok Kumar Sharma

--Respondent

Presence:-

Mr. M. S. Bhandari, Advocate for the petitioner.

None is present for the respondent.

Hon'ble Vivek Bharti Sharma, J.

This criminal misc. application is filed under Section 528 of B.N.S.S. by the petitioner/accused for quashing of the impugned summoning order dated 03.02.2024 passed by learned Additional Chief Judicial Magistrate, Roorkee, District Haridwar in Criminal Complaint No. 3367 of 2023 (*Computer Case No. 3455 of 2023*) titled as '*Ashok Kumar vs. Tasleem Ahmad*' as well as the entire proceedings of the above Criminal Complaint Case number under Section 138 of the Negotiable Instruments Act, 1881.

2. As per the report of the Registry, notice was served upon the respondent/complainant personally.



3. By the impugned order, the court of Additional Chief Judicial Magistrate, Roorkee District Haridwar has summoned the petitioner/accused to face the trial for the offence punishable under Section 138 of Negotiable Instruments Act, 1881.

4. Learned counsel for the petitioner/accused would submit that the cheques in question were given by the applicant as security in the Partnership Deed executed between Neetu and Vishal Sharma on 17.07.2020, wherein the friend of the petitioner/accused Neetu had received ₹13,50,000/- from the son of the respondent/complainant; that, a settlement had been arrived at between these persons in which, it was mentioned that the dispute in Partnership be settled and the cheques in question given blank as security to Vishal Sharma i.e. the son of the respondent/complainant, will be returned to Neetu i.e. the friend of the petitioner/accused; that, but these cheques were not returned.

He would further submit that a sum of ₹21,00,000/- was received by the son of the respondent/complainant and despite that the present complaint case was filed against the



petitioner/accused notwithstanding the fact that the son of respondent/complainant had received the whole amount as per the settlement.

5. Counsel for the petitioner/accused would further submit that as per Paragraph No. 7 of the alleged settlement which was arrived at Gram Panchayat Brahmpur Shankarpuri Kanhapur, Roorkee, District Haridwar, it was agreed that when the son of the respondent/complainant receives the seven cheques, then those cheques would be returned to Neetu i.e. friend of the petitioner/accused and he will not misuse those cheques.

6. Heard, perused the record and considered.

7. In the considered view of this Court that all the issues which have been raised in the petition for quashing the criminal proceedings, are entirely in the domain of the trial and the same can only be proved at the anvil of the evidence before the trial court.

The questions that whether the cheques in question were given as blank by the petitioner/accused; whether there was a settlement between the friend of the petitioner/accused and the son of the respondent/complainant; whether any



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amount was received by the son of the respondent/complainant or not, are the matter of evidence, which cannot be decided in the proceedings under Section 528 of BNSS, therefore, there is no case made out for quashing of the abovementioned criminal proceedings.

8. For the aforesaid reasons, the C-528 petition lacks merit and is hereby dismissed *in limine*.

9. Petitioner/accused is directed to appear before the Trial Court on 03.04.2025 at 10:30 AM.

10. Learned counsel for the petitioner/accused is requested to inform the petitioner/accused accordingly.

11. No notice of appearance would be sent to the petitioner/accused by the concerned Trial Court.

12. Let a copy of this order be sent to the Trial Court concerned to proceed with the trial and do the needful, as per law.

(Vivek Bharti Sharma, J.)
26.03.2025

Akash