



2025:AHC:174916

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 8493 of 2025

Veer Vijay Singh

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Fakhruzzaman
Counsel for Opposite Party(s)	:	G.A.

Court No. - 75

HON'BLE VIKAS BUDHWAR, J.

1. Heard Sri Fakhruzzaman, learned counsel for the applicant and Sri Pankaj Kumar Rai, learned State Law Officer for the State.

2. This application under Section 528 BNSS has been filed by the applicant to quash the impugned summoning order dated 12.06.2023 as well as entire proceeding passed of Complaint Case No. 463/2021 (M/s Balaji Tredars Konch Vs. Veer Vijay Singh) Under Section 138 Negotiable Instrument Act 1881 Police Station- Kotwali Konch, District-Jalalun, pending in the court of Judicial Magistrate, Konch (Jalaun).

3. The case of the applicant is that the complaint stood lodged on 24.08.2021 by the opposite party no. 2 against the applicant under Section 138 of the N.I. Act with an allegation that the applicant had drawn a cheque bearing No. 940324 of Rs.1,50,000/- on 30.06.2021, presentation in the bank which came to be dishonoured on 13.07.2021, followed by a statutory demand notice was issued on 28.07.2021, followed by a complaint under Section 138 of the N.I. Act on 24.08.2021 and the applicant came to be summoned on 12.06.2023.

4. Learned counsel for the applicant has submitted that the applicant had purchased a Mahindra Tractor from the opposite party no. 2's agency in the month of December, 2019 and with respect to finance the remaining amount, he paid Rs. 1,05,000/- in cash and handed over ten signed cheques as security and the opposite party no. 2 assured him that once the finance would be paid in full, the cheques would be returned. However, the applicant faced financial difficulties and had to return the tractor to the finance company on 17.06.2022 and when the applicant demanded the return of the cheques, the same was not returned, instead giving false assurances and on 28.08.2023, the applicant came to know that the opposite party no. 2 had fraudulently deposited one of the cheques in the bank under the name of 'Balaji Tractor'

and allowed it to bounce. Allegation is that the opposite party no. 2 issued the applicant's cheques to various individuals, including Bhanu Pratap Singh, Akanksha Traders, and Manish Shukla by forging the name 'Veer Vijay Singh' to create confusion due to its similarity to the applicant's name. The applicant also approached the police station and further a first information report also came to be lodged by the applicant being FIR No. 0056 on 18.03.2024, under Sections 323, 504, 420, 406 IPC and further others persons who had been deceived, they had lodged a first information report.

5. Learned counsel for the applicant submits that the applicant has been deceived, he has not committed any offence and further there is no legal, debt or liability so as to invoke the Section 138 of the Act.

6. Learned AGA on the other hand submits that whatever arguments, are being raised, are subject matter of trial and presumption under Section 139 of the N.I. Act would be there.

7. I have heard the learned counsel for the parties and perused the record.

8. Apparently, with respect to dishonouring of a cheque, statutory demand notice came to be issued, followed by a complaint. The question whether the applicant has been deceived and the said cheques were misutilized are the subject matter of trial. they are the matter of defence, consideration whereof are not required to be gone into at this stage, when summoning order is subject matter of challenge. The issue with regard to the lodging of the first information report is also a subject matter of trial being a defence and this Court in absence of any documents is not required to record any conclusive finding. Moreover, the presumption under Section 139 of the N.I. Act would be there.

9. Accordingly, the interference is declined, the application stands **disposed of**.

10. Leaving it open to the applicant to raise legal and factual grounds while contesting the trial.

(Vikas Budhwar,J.)

September 26, 2025

A. Prajapati