

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

*Reserved on: 14.09.2026  
Pronounced on: 18.09.2026  
Uploaded on: 18.09.2026*

**CRM(M) No. 598/2023**

Rajneesh Kumar

**...Petitioner /Appellant(s)**

Through: - Mr. K. Nirmal Kotwal, Sr. Advocate with  
Mr. Rajveer Singh Isher, Advocate

Vs.

Ram Paul Choudhary

**...Respondent(s)**

Through: - Mr. Rahul Raina, Advocate

**CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**JUDGMENT**

1. The petitioner, through the medium of the present petition, has challenged order dated 13.02.2023 passed by the learned Judicial Magistrate 1st Class (Additional Munsiff), Samba (hereinafter referred to as "the trial Magistrate"), whereby the learned trial Magistrate has, after recording satisfaction that an offence under Section 138 of the Negotiable Instruments Act (for short, "the NI Act") is made out against the petitioner, issued the process against him.

2. It appears that the respondent has filed a complaint under Section 138 of the NI Act against the petitioner before the trial court, alleging therein that he had advanced a sum of Rs. 6.00 lacs as a loan to the petitioner. It has been averred in the complaint that, in order to discharge

his liability, the petitioner issued a cheque bearing No. 040571 dated 06.02.2016 for an amount of Rs. 6.00 lacs in favour of the respondent and assured him that the said cheque would be honoured upon its presentation. It has further been submitted that when the respondent/complainant presented the said cheque for encashment before Corporation Bank, Samba Branch, the same was dishonoured due to insufficiency of funds in the account vide memo dated 22.02.2016. The respondent/complainant thereafter issued a demand notice dated 17.03.2016 and served the same upon the petitioner through his counsel. Despite receipt of the said notice, the petitioner did not discharge his liability towards the respondent, which prompted him to file the complaint before the trial Magistrate on 19.04.2016.

3. The learned trial Magistrate, after recording the preliminary evidence, issued process against the petitioner in terms of order dated 17.05.2016. The said order was called in question by the petitioner by way of a petition under Section 482 Cr.P.C. before this Court, which came to be registered as CRM(M) No. 136/2022. The said petition was allowed by this Court in terms of order dated 14.03.2022 by holding that the learned trial Magistrate had passed the summoning order in a casual and routine manner. The learned trial Magistrate was accordingly directed to reconsider and revisit the matter afresh and pass appropriate orders in accordance with law.

4. Pursuant to the directions passed by this Court in CRM(M) No. 136/2022, the learned trial Magistrate reconsidered the matter and passed

the impugned order dated 13.02.2023, whereby the process has been issued against the petitioner.

5. The petitioner has challenged the impugned order on the grounds that the learned trial Magistrate has not considered the directions issued by this Court on 14.03.2022 while passing the impugned order. It has been contended that the statements of the complainant and his witnesses have not been recorded on oath by the learned trial Magistrate. It has further been contended that an agreement was executed between the parties on 06.02.2012 and, as per the terms of the said agreement, the cheque which is subject matter of the complaint was delivered by the petitioner to the respondent as security. It has been submitted that the said cheque was blank and was presented for encashment after more than four years, when it had already become stale. It has further been contended that there has been interpolation in the cheque, inasmuch as, according to the agreement executed between the parties, the date of issuance of the cheque was 31.05.2016, which has been altered to 06.02.2016. On these grounds, the petitioner has sought quashment of the impugned order passed by the learned trial Magistrate.

6. I have heard learned counsel for the parties and perused the record, including record of the trial Magistrate.

7. A perusal of the impugned order passed by the learned trial Magistrate reveals that the relevant facts pleaded in the complaint have been duly noticed by the learned trial Magistrate. The preliminary evidence

led by the complainant has also been taken into account by the learned trial Magistrate. It is also relevant to mention here that the respondent has made a preliminary statement before the learned trial Magistrate on oath in support of the assertions made in the complaint. Besides this, the statement of one witnesses of the complainant, namely, Tarsem Singh, was also recorded by the learned trial Magistrate on oath. On the basis of these statements and the documents annexed with the complaint, which include the cheque, dishonour memo, demand notice, and postal receipt in respect of the demand notice, the learned trial Magistrate proceeded to pass the impugned order. Thus, it cannot be stated that, while passing the impugned order and recording satisfaction that an offence under Section 138 of the NI Act is made out against the petitioner, the learned trial Magistrate has not applied her mind. The impugned order passed by the learned trial Magistrate is well reasoned.

8. So far as the contention of the petitioner that, as per the agreement executed between the parties on 06.02.2012, the date of the cheque which is the subject matter of the complaint was 31.05.2016 and not 06.02.2016, is concerned, the same is a matter of trial. A bare perusal of the cheque, which is the subject matter of the complaint, would reveal that there is no visible interpolation in the date of issuance of the said cheque.

9. The contention of the petitioner that the cheque in question was issued by him in the year 2012 but was presented for encashment in the year 2016, after it had become stale, is also a matter of trial. At the stage of taking cognizance of an offence and issuing process against the accused,

10. For the foregoing reasons, I do not find any ground to interfere with the impugned order passed by the learned trial Magistrate. The petition lacks merit and the same is, accordingly, dismissed. The interim order shall stand vacated.

**Jammu:**  
18.09.2026  
Karam Chand

Yes/No  
Yes/No

