

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

CRM (M) No. 3/2026

CrIM No. 7/2026

Jasveer Singh and others

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

Through: Mr. Ranjeev Dubey, Advocate

Vs

Jugal Kishore

..... Respondent(s)

Through:

Coram: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
12.01.2026

1. The petitioner has called in question the proceedings initiated by the respondent under Section 138 of the Negotiable Instruments Act, contending that the complaint is devoid of merit and is liable to be quashed as it amounts to an abuse of the process of law. It is alleged that the complaint has been malafidely instituted as a counterblast to suppress the petitioner's lawful claim, for which the petitioner has already initiated a civil suit against the respondent for recovery of an amount of ₹45,00,000/-.

2. From the pleadings and material annexed with the petition, it emerges that the respondent filed a complaint under Section 138 of the Negotiable Instruments Act against the petitioner before the Court of the learned JMJC (Sub-Judge), Katra, registered as File No. 54/2025. Vide order dated 04.06.2025, the Trial Court diarized the complaint and, invoking Section 223 of the BNSS, granted an opportunity of hearing to the petitioner at the pre-

cognizance stage. After hearing the petitioner, the Court, vide order dated 29.10.2025, took cognizance of the offence under Section 138 of the Negotiable Instruments Act, upon being satisfied that cheques bearing Nos. 585947, 585948, and 585949 had been dishonoured vide memo dated 15.04.2025. It was further noticed that the statutory legal notice had been duly served upon the petitioner, as evidenced by the postal receipt dated 07.05.2025. The Trial Court observed that although a hearing had been afforded at the pre-cognizance stage, in view of the law laid down by the Hon'ble Supreme Court in *Sanjabij Tari vs. Kishore S. Borcar & another*, reported as 2025 Live Law (SC) 952, the requirement of hearing the accused at such stage stood dispensed with, and accordingly process was directed to be issued.

3. The record further reveals that while the complaint under Section 138 was filed on 04.06.2025, formal cognizance was taken on 29.10.2025. In the interregnum, the petitioner instituted a civil suit before the Court of the District Judge, Udhampur on 01.09.2025, seeking recovery of ₹45,00,000/-, claiming the said amount as past liability arising out of contractual obligations between the parties.

4. During the course of arguments, learned counsel for the petitioner submitted that, as reflected from Annexure IV of the petition, a private complaint under Sections 115, 126, and 352 of the Bharatiya Nyaya Sanhita had also been filed by the petitioner against the respondent before the Court of the Chief Judicial Magistrate, Udhampur, on 29.08.2025.

5. Thus, it is evident that multiple litigations are pending between the parties. However, upon consideration, the petitioner has failed to carve out a case warranting invocation of the inherent jurisdiction to quash the proceedings

under Section 138 of the Negotiable Instruments Act. This is particularly so because the petitioner invoked the civil remedy only after the filing of the complaint under Section 138 and even the private criminal complaint was instituted subsequent thereto.

6. It is apparent that the petitioner has initiated multiple proceedings against the respondent with a view to derail the prosecution under Section 138 of the Negotiable Instruments Act. The contention raised that once the Trial Court had granted a hearing under Section 223 of the BNSS at the pre-cognizance stage, the same could not have been dispensed with, is devoid of legal merit. The essential ingredients of Section 138 of the Negotiable Instruments Act include the statutory presumption that the cheque was issued in discharge of a legally enforceable debt or liability, followed by dishonour and compliance with the mandatory requirements under Section 142 of the Act. Once these conditions are fulfilled, the Court is competent to take cognizance and initiate proceedings. In the present case, the Trial Court has rightly relied upon the judgment of the Hon'ble Supreme Court in *Sanjabij Tari vs. Kishore S. Borcar & another* (2025 Live Law (SC) 952), holding that the requirement of hearing the accused at the pre-cognizance stage under Section 223 of the BNSS stands dispensed with, as proceedings under Section 138 are required to be governed by the special statute itself.

7. The contention raised by the petitioner regarding non-service of the statutory legal notice is also unfounded. The postal receipts clearly establish that the legal notice was sent to the same address at which the petitioner was served during the pre-cognizance proceedings.

8. The plea that the petitioner was denied the right of hearing is wholly contradictory to the record. The interim orders placed on record categorically demonstrate that the petitioner appeared through counsel and even sought time to file objections to the complaint. The physical non-production of the petitioner was deliberately avoided by his counsel, and therefore, it cannot be contended that the petitioner was denied an opportunity of being heard.

9. In view of the foregoing discussion, no case for interference is made out. The petition is devoid of merit and is accordingly **dismissed**. The Trial Court is directed to proceed with the matter in accordance with law.

(Sanjay Parihar)
Judge

Jammu
12.01.2026
Nikhil