

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

Reserved on: 07.09.2026

Pronounced on: 10.09.2026

Uploaded on: 10.09.2026

*Whether the operative part or full
judgment is pronounced:* **Full**

CRM(M) No.13/2023

ABDUL MAJEED MIR

...PETITIONER(S)/APPELLANT(S)

*Through: - Mr. Sheikh Manzoor, Advocates, with
Mr. Shabir Shah, Advocate.*

Vs.

HABIBULLAH TANTRAY

...RESPONDENT(S)

Through: - Mr. L. A. Latief, Advocate.

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1) The petitioner has filed this petition for quashing the proceedings of the complaint titled “**Habibullah Tantray vs. Abdul Majeed Mir**” filed by the respondent against him under Section 138 of Negotiable Instruments Act, pending before the Court of Judicial Magistrate 1st Class (Sub Judge), Baramulla, on the grounds that it has been stated by the complainant in his complaint that the petitioner owes an amount of Rs.3.00 lakhs and as part payment, he issued a cheque bearing No.333571 for an amount of Rs.1.50 lakhs drawn at Punjab National Bank and when the said cheque was presented for its encashment at Punjab

National Bank, Branch, Sopore, the same was returned unpaid. However, the respondent also filed a complaint against the petitioner and one more person before the Crime Branch, Srinagar, stating therein that the petitioner had duped the respondent of his money on the pretext of providing a government job, regarding which FIR No.17/2015 came to be registered at Police Station, Crime Branch, Kashmir, for commission of offences under Sections 420, 467, 468, 471 and 120-B of IPC against the petitioner and two more accused persons, namely, Sara Begum and Abdul Rashid Sofi. The said FIR has culminated in the filing of charge-sheet on 18th June, 2022, now committed to the Court of learned Sessions Judge, Srinagar. It has been stated that the statements of the complainants and witnesses recorded during investigation under Section 161 and 164 of Cr.P.C. and meaningful reading and understanding of the complaint, would demonstrate that there exists no legally recoverable debt, for which the cheque has been issued in favour of respondent. It has been contended that the alleged cheque was not issued for any enforceable debt and the said transaction, pursuant to which the cheque was allegedly issued, was barred by law.

2) Learned counsel for the petitioner has reiterated the submissions made in the petition, as recorded above, for the purpose of quashing the complaint.

3) *Per contra*, Mr. Lateef, learned counsel appearing for the respondent, has submitted that the contentions raised by the petitioner are disputed questions of facts which cannot be considered at this stage.

4) Heard and perused the record.

5) The record reveals that the respondent has filed the complaint by asserting that that the petitioner owes an amount of Rs.3.00 lakhs and as part payment, he issued a cheque bearing No.333571 for an amount of Rs.1.50 lakhs drawn at Punjab National Bank and when the said cheque was presented for its encashment at Punjab National Bank, Branch, Sopore, the same was dishonoured on 10.10.2013, and demand notice was also issued to the petitioner on 20.10.2013. Thereafter, the respondent filed the complaint against the petitioner for commission of offence under Section 138 of the Negotiable Instruments Act.

6) The facts pleaded and the contentions raised by the petitioner, in this petition, fall within the realm of factual disputes, which cannot be adjudicated by this Court while exercising jurisdiction under Section 528 of the BNSS (482

Cr.P.C). Accordingly, the present petition is found to be without any merit and the same is dismissed.

(Rajnish Oswal)
Judge

Srinagar,

10.09.2026

“Bhat Altaf-Secretary”

Whether the **judgment** is reportable: **YES/NO**

