

Serial No. 72
Regular Cause List.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) 34/2026 CrIM(69/2026).

ABDUL RASHID MIR.

...Petitioner (s)

Through: Mr. Asif Ahmad Bhat, Advocate with
Ms. Asra Bhat, Advocate.

VERSUS

MAQSOOD HUSSAIN WANI.

Through: Ms. Insha Haroon, Advocate.

...Respondent(s)

CORAM:

HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.

ORDER

31-08-2026

1. In terms of order dated 11th of November, 2025, passed in a complaint titled ***“Maqsood Hussain Wani Versus Abdul Rashid Mir”*** under Section 138 of the Negotiable Instruments Act, the Court of learned City Judge, Srinagar, (hereinafter referred to as the “Trial Court”,) has closed the evidence of the petitioner/accused and posted the matter for final arguments.
2. Mr. Asif Bhat, learned counsel for the petitioner, has submitted that the petitioner had furnished affidavits of two witnesses, namely, Muhammad Shafi Wani and himself. He has further submitted that the petitioner had also deposited diet expenses for summoning two witnesses, namely, Ghulam Ahmed Kuthoo and Shameem Ahmed Sheikh. The learned Trial Court, in terms of order dated 20th of June, 2025, had summoned the above-

mentioned witnesses through Police Station Harwan and Police Station Tulmulla, Ganderbal, but without securing the presence of these two witnesses, in terms of the impugned order, closed the evidence of the petitioner, notwithstanding the fact that the petitioner had himself got cross-examined pursuant to the affidavit filed by him as his own witness.

3. Learned counsel for the petitioner has further submitted that the order impugned may hold good as far as closure of the evidence of the petitioner for producing the witness, namely, Muhammad Shafi is concerned, but the Trial Court could not have closed the evidence of the petitioner without securing the presence of two witnesses whose diet expenses were deposited by the petitioner.
4. Learned counsel for the respondent has submitted that the petitioner took considerable time for leading evidence and, as such, he is not entitled to any relief.
5. Heard learned counsel for the parties and perused the record.
6. Admittedly, the petitioner had sought assistance of the learned Trial Court for examining the two witnesses, namely, Ghulam Muhammad Kuthoo and Shameem Ahmad Sheikh, and it is borne from the record that in terms of order dated 20th of June, 2025, notice was issued to both these witnesses through the SHOs of the concerned police stations. However, on the next date of hearing, that is, 12th of July, 2025, the learned Presiding Officer was not available.
7. It is evident from the record that the two witnesses whose presence was sought through the assistance of the Court have not been examined, and

there is nothing on record to show that after 20th of June, 2025, any notice was issued to them. Once the petitioner had deposited the diet expenses, the learned Trial Court ought to have ensured their presence and, if necessary, by resorting to coercive measures as well.

8. In view of the above, the impugned order dated 11th of November, 2025, is set aside and the learned Trial Court is directed to ensure the presence of aforementioned two witnesses in accordance with law and, if necessary, coercive measures may also be resorted to.
9. It is made clear that in the event the petitioner seeks any unnecessary adjournments, the Trial Court shall be at liberty to close the evidence of the petitioner.
10. Disposed of along with connected CrlM.
11. Copy of this order be forwarded to the learned Trial Court for information.

(Rajnish Oswal)
Judge

SRINAGAR
31-08-2026
Showkat Khan