

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) 104/2024
CrIM(277/2024).

SARTAJ AHMAD THOKER.

Through: Mr. Jawaid Abdullah, Advocate.

...Petitioner (s)

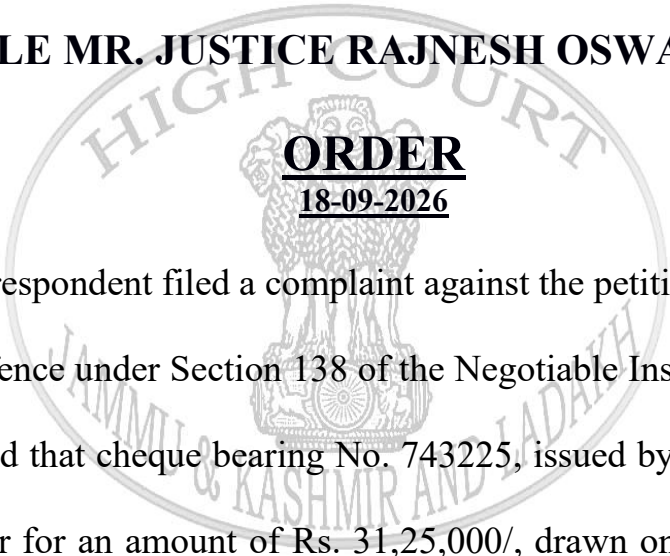
VERSUS

MUSHTAQ AHMAD MIR.

Through: Mr. Younis Ahad, Advocate.

...Respondent(s)

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



ORDER
18-09-2026

01. The respondent filed a complaint against the petitioner for commission of offence under Section 138 of the Negotiable Instruments Act, on the ground that cheque bearing No. 743225, issued by the petitioner in his favour for an amount of Rs. 31,25,000/, drawn on J&K Bank, Branch Unit Lassipora, Pulwama, has been dishonoured on account of ‘*insufficient funds*’.
02. The Court of learned Chief Judicial Magistrate, (for short “the Trial Court”), in terms of order dated 25th of August, 2023, issued process against the petitioner for commission of the aforesaid offence.
03. The petitioner, being aggrieved by the order dated 25th of August, 2023, whereby process was issued against him, assailed the same by way of a

revision petition before the learned Principal Sessions Judge, Pulwama, however, the said revision petition came to be dismissed in terms of order dated 20th of February 2024.

04. The petitioner, through the medium of present petition, has assailed the proceedings initiated by the respondent, order of issuance of process dated 25th of August, 2023, and order dated 20th of February, 2024, passed by the learned Principal Sessions Judge, Pulwama, on the ground that the order dated 25th of August, 2023, was passed against the petitioner on a 'printed format'. It is further contended that the subject cheque bore two signatures. Had the learned Trial Court and the Revisional Court properly considered this material aspect of the case, the order issuing process against the petitioner would not have been passed or the same would have been quashed in revision petition (supra).

05. Learned counsel for the petitioner has reiterated the submissions as recorded hereinabove.

06. Per contra, learned counsel for the respondent has submitted that the petitioner had issued the cheque from the account maintained by him as proprietor only. It is further submitted that though the order issuing process has been passed by the learned Trial Court on a printed format, the same does not demonstrate any lack of application of mind on the part of the learned Trial Court.

07. Heard learned counsel for the parties and perused the record.

08. Learned counsel for the petitioner is right in his submission that the order issuing process against him has been passed by the learned Trial

Court on a printed format. It needs to be noted that the cheque presented by the respondent, allegedly issued by the petitioner, was dishonoured on account of '*insufficient funds*'. The respondent also issued notice to the petitioner calling upon him to make payment of the amount in view of the dishonoured cheque. However, as averred in the complaint, despite receipt of the notice, the petitioner did not make payment to the respondent within the period stipulated in the notice.

09. This Court is of the considered view that the requisites for issuance of process for commission of offence under Section 138 of the Negotiable Instruments Act exist in the complaint, though the learned Trial Court ought not to have passed the order on a printed format. Even if the order of issuance of process is quashed on the abovementioned ground and the matter is remitted to the learned Trial Court, the result would be the same. Therefore, this contention of the petitioner is rejected.

10. The other ground raised by the petitioner is that the learned Trial Court did not bother to examine the fact that the subject cheque was carrying two signatures. Learned counsel for the respondent has submitted that the cheque was issued by the petitioner from the account maintained by him only and that the cheque has been dishonoured by the bank on account of *insufficient funds* in the account and not on account of any mismatch in the signatures.

11. Be that as it may, this Court considers it inappropriate to record any finding on the ground raised by the petitioner at this stage and the same being a pure question of fact is left to be examined and decided by the

learned Trial Court during trial. The petitioner is left free to agitate this plea in the trial proceedings.

12. In view of the above, this Court does not find any reason to show indulgence in the matter. The petition is *dismissed*. However, the petitioner is left free to raise all the pleas available to him during trial before the learned Trial Court.

13. A copy of this order be sent to the learned Trial Court for information and compliance. .

(Rajnish Oswal)
Judge

SRINAGAR
18-09-2026
Showkat Khan

