

**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.611/2022

ABDUL MAJEED MIR

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

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

Vs.

ABDUL KHALIQ WANI

...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 "**Abdul Khaliq Wani 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 in the complaint, it has been stated by the complainant that the cheque in question was issued by the petitioner on account of business transaction concerning the trade of walnuts. 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, 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 is stated that the statement of the respondent recorded during investigation under Section 161 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 is contended that the alleged cheque was not issued for any enforceable debt and, as per the statement of the respondent, it is evident that the said transaction, pursuant to which the cheque was 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. His main argument is that, in view of the statement made by the respondent during investigation, the complaint cannot continue.

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 in the month of December, 2011, the petitioner borrowed some amount from him for purchase of the walnuts with the condition that the same would be supplied to him, as he pretended to be the dealer of walnuts. Believing the petitioner, the respondent paid an amount of Rs.6.00 lakhs to him but once the season for collection of the stock of walnuts arrived, the petitioner refused to supply the same. The respondent came to know that the petitioner had not purchased the walnuts and had made a false promise with him for the purpose of getting the amount. After the petitioner was approached by the respondent, the cheque in question was issued by him, which was dishonoured on 8th December, 2012, and thereafter, notice was also issued to the petitioner on 12th December, 2012. Thereafter the respondent filed the complaint against the petitioner for commission of offence under Section 138 of the Negotiable Instruments Act.

6) In the reply to the notice served by the respondent upon the petitioner, it is stated that he had not entered into any contract with the respondent and, the respondent obtained the instant cheque from him to extort money. It was also stated that the cheque was obtained by assaulting the petitioner.

7) In the reply by the petitioner, it was nowhere stated that the cheque was issued on account of some illegal transaction, as is being projected in this petition.

8) Be that as it may, the facts pleaded and the contentions raised by the petitioner fall within the realm of factual disputes and 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**