

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

134-1	CRM-M-6765-2023 (O&M) Date of decision: 09.02.2023
Jitendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondents
134-2	CRM-M-6766-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-3	CRM-M-6770-2023 (O&M)
Jitendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondents
134-4	CRM-M-6771-2023 (O&M)
Jitendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondents
134-5	CRM-M-6772-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-6	CRM-M-6774-2023 (O&M)
Jitendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondents

CRM-M-6765-2023 (O&M) and other connected cases

134-7	CRM-M-6775-2023 (O&M)
Jitendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondents
134-8	CRM-M-6776-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-9	CRM-M-6777-2023 (O&M)
Jitendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondents
134-10	CRM-M-6778-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-11	CRM-M-6779-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-12	CRM-M-6780-2023 (O&M)
Jitendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondents

CRM-M-6765-2023 (O&M) and other connected cases

134-13	CRM-M-6782-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-14	CRM-M-6783-2023 (O&M)
Jitendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondents
134-15	CRM-M-6787-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-16	CRM-M-6788-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-17	CRM-M-6789-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-18	CRM-M-6790-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents

CRM-M-6765-2023 (O&M) and other connected cases

134-19	CRM-M-6791-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents

134-20	CRM-M-6792-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents

134-21	CRM-M-6793-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents

134-22	CRM-M-6794-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents

134-23	CRM-M-6796-2023 (O&M)
Jitendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondents

134-24	CRM-M-6797-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents

CRM-M-6765-2023 (O&M) and other connected cases

134-25	CRM-M-6799-2023 (O&M)
Jitendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondents
134-26	CRM-M-6801-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-27	CRM-M-6805-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-28	CRM-M-6806-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-29	CRM-M-6808-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents
134-30	CRM-M-6812-2023 (O&M)
M/s Jinaam Fashion World and others	...Petitioners
Versus	
State of Haryana and another	...Respondents

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CRM-M-6814-2023 (O&M)

M/s Jinaam Fashion World and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Saurabh Dalal, Advocate for the petitioner

Ms. Shubhra Singh, Addl. A.G., Haryana.

ANOOP CHITKARA, J.

Complaint No.	Dated	Decided by	Sections
NACT/26365	10.06.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/8218	10.03.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/1607	10.12.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/12570	10.08.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/8245	01.07.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/8246	10.05.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/26367	10.06.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/16794	10.09.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/1608	10.12.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/9513	10.04.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/3844	10.01.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/9788	10.06.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/6015	04.05.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.

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NACT/26366	10.07.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/7538	10.04.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/8219	04.05.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/9512	10.04.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/393	10.11.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/3838	10.01.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/6014	04.05.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/23217	10.05.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/394	13.11.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/5452	10.02.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/8279	10.11.2016	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/5453	10.02.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/23215	10.05.2018	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/8243	01.07.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/11258	15.07.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/2129	06.02.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/1608	10.12.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.
NACT/2130	06.02.2017	JMIC Gurugram	138/141/142 of Negotiable Instruments Act and Section 357 Cr.P.C.

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The common questions of law and fact involved in these petitions, therefore, all the petitions are taken together, for brevity facts are taken from CRM-M-6765-2023.

2. Seeking quashing of the complaint(s) mentioned above, filed before learned JMIC Gurugram and any further proceedings arising out of the same, petitioner(s) has come up before this Court.

3. Counsel for the petitioner submits that the total cheques which were presented by the holder of the cheque exceeded the admitted liability as referred in Annexure P-2, which is a copy of plaint of civil suit filed by one Gian P. Kumar against the petitioner and his firm. As per para 26 of the civil suit in which the total liability has been referred as Rs.1,75,57,000/-, whereas, to the contrary, the total amount of all cheques which were allegedly presented for encashment by the complainant comes to Rs.3,70,97,500/- for 32 cheques, as such prima facie the cheques amount were in excess to the liability which said Gian P. Kumar claimed from the said suit. When there is not endorsement of part payment or different claim i.e a violation of Section 56 of the Act and complaints are liable to be quashed and no case against the petitioner under Section 138 N.I. Act is made out.

4. Issue notice of motion.

5. Notice served upon the official respondent through the State's counsel. Mr. Aditya Jain, Advocate and Mr. Gagandeep Singh, Advocate assisting counsel of Mr. Ashish Chopra, Senior Advocate accepts notice on behalf of respondent No.2 and waives service.

6. Learned Senior counsel for respondent No. 2 submits that the civil suit was filed by only Gian P. Kumar whereas, the complaints were filed by Ms. Komilla Kumar wife of Gian P. Kumar and also by Gian P. Kumar and the total liability is in excess of the civil suit filed by Gian P. Kumar.

7. Senior counsel further submits that in some cases the trial of the complaints are at the stage of final arguments and some cases are listed for examination of accused as defence witness and other cases are at advance stage of trial. He further submits that petitioner's co-accused already stands convicted and the trial of the petitioner was separated because he was an absconder.

8. After arguing at length, counsel for the petitioner wants to withdraw the present petition with liberty to raise all the pleas raised in these petitions at the time of final arguments before the trial Court.

9. Given above, present petition stands disposed of having been withdrawn with liberty aforesaid. All pending miscellaneous applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

09.02.2023
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.