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Reg

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

Date of pronouncement: 22.12.2025

Uploaded on 23.12.2025

CRM(M) 813/2025
CrIM(2056/2025)

ABDUL WAHEED LONE

..... Petitioner (s)

Through: Mr. Danish Yousuf, Advocate.

V/s

**SHRIRAM FINANCE LTD TH.ITS ATTORNEY HOLDER/AUTHORIZED
REPRESENTATIVE ASIF HUSSAIN MALIK**

..... Respondent(s)

Through:

Coram:

Hon'ble Mr. Justice Sanjay Dhar, Judge

ORDER

22.12.2025

1. The petitioner, through the medium of present petition has challenged complaint filed by the respondent against him alleging commission of offence under Section 138 of the Negotiable Instruments Act which is stated to be pending before the court of Special Mobile Magistrate, Anantnag.
2. Heard and considered.
3. The first ground urged by the petitioner for challenging the impugned complaint is that, there is no legally enforceable debt due to the respondent from the petitioner. It has also

- been contended that statutory notice of demand issued by the respondent is defective in nature and that the respondent could have filed a civil suit for recovery of amount against the petitioner instead of filing the impugned complaint.
4. So far as the first ground is concerned, the question whether there is legally enforceable debt due to the respondent from the petitioner is a matter of trial. Once issuance of cheque is admitted by the petitioner, the presumption under Section 139 of Negotiable Instruments Act arises. The said presumption is rebuttable in nature and can be rebutted by the petitioner only after leading evidence during trial of the case. At this stage, this Court cannot go into all these questions.
5. So far as the ground with regard to legal notice of demand is concerned, a perusal of the legal notice of demand, copy whereof has been placed on record by the petitioner, reveals that the respondent has made a demand of Rs. 20.00 lacs from the petitioner and the cheque which is subject matter of the impugned complaint is also for the same amount. Therefore, there is no defect or ambiguity in the legal notice of demand served by the respondent upon the petitioner.
6. The last contention raised by the petitioner is also without any substance. A holder of a cheque which has been dishonoured

has the option of filing a complaint under Section 138 of the Negotiable Instruments Act or a civil suit and infact, he can pursue both the remedies simultaneously. There is no legal or statutory bar regarding the same.

7. For the foregoing reasons, I do not find any merit in the petition. The same is dismissed accordingly.



(Sanjay Dhar)
Judge

SRINAGAR
22.12.2025
Aasif

Whether the order is speaking Yes/No

Whether the order is reportable Yes/No