



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

113

CRR-1201-2025 (O&M)
Date of decision: 06.05.2025

Raj Kumar

....Petitioner

Versus

Hargovind

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashish Yadav, Advocate
for the petitioner.

HARPREET SINGH BRAR J. (Oral)

1. The instant revision petition has been preferred for setting-aside the orders dated 06.03.2025 and dated 07.04.2025, passed by learned Judicial Magistrate Ist Class, Gurugram, whereby firstly the defence evidence of the petitioner/accused was closed by Court order and subsequently, the application filed by the petitioner/accused under Section 348 of BNSS, 2023, for leading additional evidence has been dismissed.

2. The brief facts of the case are that the petitioner has been falsely implicated by the respondent in a complaint filed under Section 138 of the Negotiable Instruments Act in the year 2017. It was alleged that the petitioner had issued two cheques to the respondent for a friendly loan of Rs.35 lakhs, which were dishonoured due to insufficient funds. The petitioner had initially engaged a counsel to represent him in the case but unfortunately, the counsel adopted a negligent approach, which resulted in the cancellation of the petitioner's bail on 17.02.2025.



Thereafter, the petitioner replaced the earlier counsel and engaged Mr. Dharambir Yadav, Advocate, however, when the new counsel appeared on 06.03.2025 and sought time to lead defence evidence, the learned trial Court without granting any further time, closed the petitioner's defence evidence. The petitioner immediately filed an application under Section 348 of BNSS, 2023 seeking an opportunity to lead additional evidence, which was also denied by learned trial Court vide impugned order dated 07.04.2025.

3. Learned counsel for the petitioner, *inter alia*, contends that the action of the learned trial Court for closing the defence evidence of the petitioner is highly unjust, as he was not given an opportunity to properly present his case due to the previous counsel's negligence. He further submits that the learned trial Court has failed to appreciate the legal and factual aspects of the petitioner's case and dismissed the application filed under Section 348 of BNSS, 2023, without due consideration. The petitioner has been denied an opportunity to fully contest the allegations made in the complaint under Section 138 of the Negotiable Instruments Act. It is well-established in legal precedents that parties should not be deprived of presenting their defence due to the negligence of their previous counsel and the Courts are duty-bound to ensure a fair trial.

4. Having heard learned counsel for the petitioner and after perusing the record of the case with his able assistance, present petition is being decided *in limine* without issuing notice to the respondent in



order to save judicial time of the Court and also the litigation costs of the respondent.

5. Upon perusal of the record, it is evident that the petitioner's earlier counsel failed to defend the case of the petitioner with due diligence, leading to a series of avoidable procedural errors. The petitioner, upon discovering these lapses, engaged a new counsel, who sought an opportunity to present his defence and relevant documents. The request was made in good faith, and the failure to grant such an opportunity would result in miscarriage of justice. This Court finds that the learned trial Court's decision to close the defence evidence, without granting sufficient time to new counsel to present the defence evidence, is in contravention of the principles of natural justice. The petitioner should not be penalised for the negligence of his earlier counsel, especially when he is diligent in rectifying the issue by engaging a new counsel.

6. In light of the above observations, this revision petition is allowed. The impugned orders dated 06.03.2025 and 07.04.2025 passed by Judicial Magistrate Ist Class, Gurugram are hereby set-aside. The petitioner is granted two more effective opportunities to present his defence and tender the necessary evidence, including the documents that are crucial for the proper adjudication of the case.

7. This will, however, be subject to payment of costs of Rs.20,000/- to be paid by the petitioner to the respondent.



8. It is further clarified that no additional opportunity shall be granted to the petitioner either for cross-examination; tendering documents in evidence or for leading additional evidence.
9. Disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

06.05.2025
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No