

CRM-M-21300-2025 and other connected cases

-1-

203 (03 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 07.11.2025

1.

CRM-M-21300-2025

MALTI MISHRA

.....PETITIONER

VERSUS

SANDEEP AGGARWAL

2.

CRM-M-21463-2025

MALTI MISHRA

.....RESPONDENT

.....PETITIONER

VERSUS

SANDEEP AGGARWAL

.....RESPONDENT

3.

CRM-M-21846-2025

MALTI MISHRA

.....PETITIONER

VERSUS

SANDEEP AGGARWAL

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: None for the petitioner.
 Ms. Sushma Varma Syal, Advocate for the respondent.

AARADHNA SAWHNEY, J. (ORAL)

By way of common order, this Court proposes to dispose of all
the three petitions titled above as common issues of law and facts are

**CRM-M-21300-2025 and other connected cases****-2-**

involved. Facts of CRM-M-21300-2025 are being noted herein.

2. On 02.07.2024, Sh. Sandeep Aggarwal, s/o Jagan Nath Aggarwal, r/o H.No. 1105, Sector 12-A, Panchkula filed a complaint under Section 138 of Negotiable Instrument Act and 420 of IPC against Malti Mishra w/o Rakesh Kumar, r/o Flat No. 1004, Top Floor, Block A, Arohi Agaha Society, Ahmedabad.

On the following day, i.e., 03.07.2024, based on the preliminary evidence led by the complainant, Sh. Sandeep Aggarwal, Ms. Malti Mishra was summoned to face trial under Section 138 of N.I. Act.

It is this order dated 03.07.2024 passed by the JMIC, Panchkula that has been assailed by petitioner-accused in the present petition.

3. Despite the fact, the case was called over twice, none appeared on behalf of the petitioner.

4. A perusal of the petition goes to show that the order passed by the learned JMIC has been assailed primarily on the ground that the mandatory requirement of Section 223 BNSS were not complied with before cognizance of the offence was taken.

Section 223 of BNSS reads as under:

(1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate.

5. It is thus clear that prior to passing of the summoning order, the Magistrate has to issue notice to the accused who has to be afforded an

CRM-M-21300-2025 and other connected cases

-3-

opportunity of being heard. Admittedly in the present case, the requisite procedure has not been followed. In view thereof, the matter is remanded back to learned Judicial Magistrate 1st Class, Panchkula with a direction to follow/comply with the requirement of Section 223 of BNSS as also to hear the petitioner accused before proceeding further.

6. Parties are directed to appear before the Court of learned JMIC, Panchkula on 04.12.2025. However, in case the parties do not appear on the stipulated date, let fresh notice be issued.
7. Petition is disposed of with the aforesaid observation. Pending application, if any, also stands disposed of.
8. A photocopy of this order be placed on the file of connected cases.

07.11.2025

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(AARADHNA SAWHNEY)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No