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

CRM(M) No. 592/2024

Reserved on: 14.10.2026
Pronounced on: 26.11.2026
Uploaded on: 26.11.2026
Whether the operative part or full judgment is pronounced: *Full*

Gulab Din …Petitioner(s)/Appellant(s)

Through: Mr. Aqib Aijaz, Adv.

Vs.

Mohammad Ibrahim Budoo ...Respondent(s)

Through: None.

CORAM:

HON'BLE MR. JUSTICE YASH PAUL BOURNEY, JUDGE

JUDGMENT

1. Petitioner through the medium of this petition under Section 528 of BNSS has sought the intervention of this Court for quashing the complaint titled "***Mohammad Ibrahim Budoo vs. Gulab Din"*** and the order taking cognizance dated 19.06.2024 passed by learned JMIC (Sub Judge), Baramulla. It is claimed that basis of the complaint is a cheque bearing No. 766297 dated 02.03.2024 issued for an amount of ₹3,25,000/- drawn on J&K Bank Branch Chandanwari, Uri, which is stated to be of the year 2017. It is further claim that petitioner had some business transactions with respondent which stood settled way back in the year 2017 and on return of cheque being unpaid, a demand notice was issued which though returned undelivered, yet was replied by the petitioner. however, the learned Magistrate has gone to take cognizance on the complaint without application of judicial mind.

2. The proceedings have been questioned accordingly on the ground that learned Magistrate lacked jurisdiction and the cheque in question stood discontinued as per the circular of RBA dated 15.03.2020 on non-CTS cheques, and, thus, stood invalidated which was no more a legal instrument as per the NI Act. That a civil matter in its entirely has been given the colour of a criminal proceeding in an open bid to pressurize the petitioner which is not permissible under law that learned Magistrate has transgressed its limits to exercise the powers in breach of statutory provisions, which has caused a serious prejudice to the petitioner.

3. Upon admission of the petition, a notice was issued to the respondent and scanned copies of the record have also been requisitioned from the trial court.

4. Respondent caused appearance through counsel and the record have also been received. Going by the allegations in the complaint, petitioner borrowed a sum of Rs. 3,25,000/- with the promise to return the same at the earliest which, as per the statement of the respondent, was borrowed in July 2021 and to repay the same, petitioner issued the cheque in question which upon presentation by the respondent with his banker i.e., J&K Bank, Unit Chandanwari, Baramulla was returned for want of sufficient funds. Thereafter, a demand notice dated 12.03.2024 was issued and forwarded through registered post on 14.03.2024, but was refused by the petitioner on being tendered on 20.03.2024. Hence the respondent went to file the complaint under Section 138 N.I. Act.

5. Heard both sides and perused the record of the trial court also.

6. The petitioner has thrown challenge to the complaint and order taking cognizance primarily on the ground that JMIC, Baramulla has no jurisdiction since the cheque was drawn from the J&K Bank Branch Uri (Gingle) and was presented for encashment at J&K Bank Branch Unit, Chandanwari, Uri itself so the only court at Uri had jurisdiction to entertain the complaint.

7. Per contra, a demand notice was issued from JMIC having jurisdiction.

8. Section 142(2) of the Negotiable Instruments Act, which read as under:

> (2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction:
>
> (a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or
>
> (b) if the cheque is presented for payment by the payee or holder in due course, otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.
>
> Explanation.- For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.

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9. It is thus clear that a complaint for offence under section 138 Negotiable Instruments Act can be inquired into and tried only by the court within whose local jurisdiction a cheque is delivered for collection i.e. the branch of the bank of the payee or the holder in due course or if the cheque is presented for payment otherwise through an account. The location of the branch of the drawee bank where the drawer maintains the account would be determinative of the territorial jurisdiction. The said proposition is fortified by the judgment of the **Supreme Court** in ***Sh. Sendhuragro and Oil Industries vs Kotak Mahindra Bank Limited {2025 INSC 328***} the relevant portion thereof is reproduced below:

> 61. It is clear on a reading of Section 142(2) (a) and the Explanation thereto that, for the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.
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> 62. A conjoint reading of Section 142(2) (a) along with the explanation thereof, makes the position emphatically clear that, when a cheque is delivered or issued to a person with liberty to present the cheque for collector at any branch of the bank where the payee or holder in due course, as the case may be, maintains the account then, the cheque shall be deemed to have been delivered or issued to the branch of the bank, in which, the payee or holder in due course, as the case may be, maintains the account, and the court of the place where such cheque was presented for collection, will have the jurisdiction to entertain the complaint alleging the

commission of offence punishable under Section 138 of the N.I. Act. In that view of the position of law, the word "delivered" used in Section 142(2) (a) of the N. I. Act has not significance. What is of significance is the expression "for collection through an account". That is to say, delivery of the cheque takes place where the cheque was issued and presentation of the cheque will be through the account of the payee of holder in due course, and the said place is decisive to determine the question of jurisdiction.

10. Viewed thus, the cheque forming the basis of the complaint was drawn by the petitioner from his Account with the J&K Bank Branch Gingle, tehsil Uri, and presentation in another branch of the same bank at Chandanwari, Uri, which eventually was returned unpaid. Thus, both the drawer and drawee branches of the bank were situated within the territory jurisdiction of the tehsil Uri and hence the drawee bank branch which was the determinative factor for the jurisdiction being situated within territorial limits of Judicial Magistrate 1st Class, Uri, the Judicial Magistrate, Baramulla had no jurisdiction to entertain the complaint.

11. In the backdrop of the above discussion, although the learned Judicial Magistrate 1st Class, Baramulla has taken cognizance of an offence without jurisdiction, however, it is irregularity, which does not vitiate the proceedings and is squarely covered by the provisions under Section 460 (e). The petition is, therefore, **accepted** and complaint titled "***Mohammad Ibrahim Budoo vs. Gulab Din***, pending adjudication before the learned Judicial Magistrate 1st Class,

Baramulla is ordered to be transferred to Judicial Magistrate 1st Class, Uri.

12. The learned Judicial Magistrate 1st Class, Baramulla shall transfer the case to the transferee Court immediately and notify both the parties to cause the appearance in the said court in advance.

(YASH PAUL BOURNEY)
JUDGE

SRINAGAR:
26.11.2026
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Whether approved for reporting? Yes/No