Serial No. 07
Regular Cause List

HIGH COURT OF JAMMU& KASHMIR AND LADAKH
AT SRINAGAR

CRM (M) No. 976/2026
CrlM No. 2216/2026
CrlM No. 2217/2026

Ab. Ahad Parray

… Petitioner(s)

Through: -
Mr M. Amin Khan, Advocate.

V/s

Abdul Hameed Dar

… Respondent(s)

CORAM:

HON'BLE MR JUSTICE SHAHZAD AZEEM, JUDGE.

(ORDER)
16.11.2026

01. The Petitioner has questioned the Order dated 13th of March, 2024 passed by the learned Judicial Magistrate (Judge Small Causes), Srinagar in a Complaint under Section 138 of the Negotiable Instruments Act, titled **"Abdul Hameed Dar v. Abdul Ahad Parray"**, whereby the summons came to be issued to the Petitioner-accused.

02. The Petitioner has challenged the said Order primarily on the ground that there is no legally enforceable debt for which the Complaint has been filed. He is further aggrieved of the fact that, while issuing the summons, the Trial Magistrate did not use the word "cognizance" and thus contends that the Order dated 13th of March, 2024 is bad in law.

03. Heard learned Counsel for the Petitioner.

04. A perusal of the impugned Order dated 13th of March, 2024 reveals that the summons came to be issued to the Petitioner-accused after the Trial Magistrate drew satisfaction that the Petitioner-accused had issued cheque bearing No. 169247 dated 21st of January, 2024 for an amount of Rs.7.50 lakhs, which, on presentation, got bounced. It is further seen that

the learned Trial Magistrate also held an inquiry upon finding that the Petitioner-accused is residing beyond the jurisdiction of the Court. Therefore, after being satisfied on both counts and upon holding an inquiry in terms of Section 225 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [BNSS], the Trial Magistrate issued the summons.

05. It is not the form, but the compliance of the procedural law which is necessary. In this case, the learned Magistrate has duly considered the provisions of Section 225 of the BNSS, inasmuch as the summons came to be issued on finding that the cheque accompanying the Complaint had bounced and, therefore, in this regard, a presumption under Section 139 of the Negotiable Instruments Act arises in favour of the Complainant. Therefore, mere omission of the word "cognizance" will not go to the jurisdiction of the Trial Court in summoning the accused, which otherwise amounts to taking of cognizance.

06. Be that as it may, even otherwise, the Petitioner did not convincingly show to the Court that by such omission, he suffered any prejudice.

07. Accordingly, for the foregoing reasons, this Petition, being misconceived, is **dismissed**, along with the connected CrlM(s).

(SHAHZAD AZEEM)
JUDGE

SRINAGAR
November 16th, 2026
"TAHIR"

Tahir Manzoor Bhat
I attest to the accuracy and
authenticity of this
document