



In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-8695 of 2024 (O&M)

Reserved On: 12.02.2026
Pronounced On: 06.03.2026

Rashpinder Singh

... Petitioner(s)

Versus

Indian Red Cross Society

... Respondent(s)

CORAM: Hon'ble Mr. Justice Surya Partap Singh.

Present: Mr. Balbir Singh Jaswal, Advocate
for the petitioner(s).

Mr. Manbir Singh Batth, Advocate
for the respondent.

Surya Partap Singh, J.

1. The extraordinary jurisdiction vested in this Court, entrusted by Section 482 of 'the Code of Criminal Procedure, 1973' has been invoked by virtue of present petition. The petitioner is praying for quashing of complaint No. NACT 4078 of 2019 dated 16.08.2019 pending in the court of learned Judicial Magistrate 1st Class, Amritsar.

2. In nut-shell, the facts emerging from the record are that the petitioner is facing a prosecution, for the commission of offence punishable under Section 138 of 'the Negotiable Instruments Act, 1881', hereinafter being referred to as 'NI Act'. The above-mentioned complaint is an outcome of dishonour of cheques issued by the petitioner/accused, hereinafter being referred to as "the petitioner", in favour of the respondent/complainant, hereinafter being referred to as "the respondent" only. According to

petitioner, the respondent had issued a tender for vehicle parking in the 'Guru Nanak Dev Hospital Complex and Ram Lal Eye & ENT Hospital at Amritsar' for the period from 25.07.2018 to 24.07.2019, and that being highest bidder the tender was awarded to the petitioner for a sum of ₹36,22,000/- plus GST @ 18% . As per petitioner, the total amount to be paid by the petitioner was ₹42,73,960/- and that 25% of the same was deposited by him at the time of auction and the remaining amount was to be paid through nine post-dated cheques issued by the petitioner in favour of respondent, for the month August 2018 to April 2019. It is also the claim of petitioner that with regard to above-mentioned deal an agreement was also executed between the petitioner and the respondent.

3. The petitioner has further alleged that the post-dated cheque worth ₹3,56,163 dated 25.04.2019 drawn on Punjab & Sind Bank, Fatehgarh Churian Road, Amritsar was not honoured by the banker of the petitioner and in the similar fashion another cheque of same amount dated 18.05.2019, too, was dishonoured. It has been alleged by the petitioner that with regard to above-mentioned two cheques the respondent had approached the petitioner and the petitioner had requested the respondent not to initiate any criminal action with regard to dishonour of the cheques and promised to pay the above-mentioned amounts but the respondent opted to file a complaint against the petitioner.

4. By virtue of present petition, it has been claimed by the petitioner that the complaint has been filed with malafide intentions, by the respondent, and that during the pendency of complaint the petitioner has paid the entire amount due towards the respondent and this fact has been

duly recorded in the order dated 26.09.2023. It is the allegation of the petitioner that despite receipt of money the respondent has refused to withdraw the complaint. Hence, the present petition.

5. Heard.

6. It has been contended on behalf of the petitioner that the petitioner is a simpleton law abiding citizen who is unnecessarily being harassed by the respondent by pursuing a futile litigation against him. According to learned counsel for the petitioner, the only grievance of the respondent with regard to cheques in question, has been the non-payment of dues by the petitioner, and that on payment of the above-mentioned money the respondent has got no right to pursue the present complaint. As per learned counsel for the petitioner despite receipt of money the respondent has refused to withdraw the complaint. While claiming that as per settled law, once the payment has been made, the complaint under Section 138 of 'NI Act' cannot survive, the quashing of complaint has been sought by learned counsel for the petitioner.

7. The learned counsel for the respondent has controverted the above-mentioned arguments. According to learned counsel for the respondent, before filing the complaint the respondent had asked the petitioner to pay the dues orally as well as through legal notice, but the petitioner failed to clear the dues. As per learned counsel for the respondent, in the above-said that eventuality after waiting for the requisite period the complaint has been filed.

8. It has also been contended by learned counsel for the respondent that the complaint was filed in the year 2019 and that the due

amount has been paid by the petitioner in the years 2023 and 2024, i.e. after a gap of more than four/five years and thus, the petitioner is liable to pay compensation for delayed payment. In view of above-mentioned contentions, the learned counsel for the respondent has contended that the petitioner has got no right to seek the quashing of complaint.

9. The record has been perused carefully.

10. A perusal of the record shows that in the present case there is no dispute between the parties with regard to factual matrix of the case. Those admitted facts are:-

- i) that in discharge of his liability the petitioner had issued two cheques in favour of respondent;
- ii) that the above-mentioned cheques when presented before the banker of the petitioner were dishonoured on account of 'insufficient funds' in the relevant account;
- iii) that once the cheques were dishonoured the respondent served a legal notice upon the petitioner, on 05.07.2019;
- iv) that when despite affording an opportunity to make payment pertaining to the above-mentioned two cheques the petitioner failed to make payment, the respondent filed a complaint under Section 138 of 'the NI Act' on 16.08.2019;
- v) that during the course of trial, pertaining to the above-mentioned complaint, the petitioner has paid a sum of ₹3,56,163/- on 26.09.2023 and another sum of ₹3,56,163/- on 18.01.2024, the money equivalent to

cheque amount.

11. In the light of above-mentioned facts, now it has been determined whether on payment of above-mentioned money the petitioner has got a right to seek the quashing of complaint or not. The answer to the above-mentioned question is in negative. Since the provision comprised under Section 138 of 'the NI Act' is a penal provision, which prescribes punishment on proving of charge under Section 138 of 'the NI Act', it is hereby held that unless the complainant/respondent agrees to compound the offence the petitioner has got no right to seek the quashing of complaint.

12. The similar situation has been dealt with by the Hon'ble Supreme Court of India in the case of "Raj Reddy Kallem v. The State of Haryana and Another" 2024 SCC Online SC 833, wherein it has been observed that if the complainant has been duly compensated by the accused, yet the complainant does not agree for the compounding of the offence, the Courts cannot compel the complainant to give consent for compounding of the matter. As per Hon'ble Supreme Court of India, the mere repayment of the money cannot mean that the appellant is absolved from the criminal liabilities under Section 138 of 'the NI Act'.

13. The facts of the present case are quite peculiar in view of the fact that the amount due towards the petitioner was in the year 2019, whereas the payments were made after a delay of more than four/five years, i.e. one installment in the year 2023 and another in 2024. For this delay, the respondent is staking its claim for compensation and such issue can be adjudicated upon on the conclusion of trial only. Otherwise also the facts of the present case are squarely covered by the principles of law laid down in

the case of ‘Raj Reddy Kallem’ (supra).

14. As a sequel to above mentioned observations, it is hereby held that the prayer of petitioner seeking for quashing of complaint carries no merit and deserves to be declined. Hence, finding no merit, the present petition is hereby **dismissed**, accordingly.

15. The pending miscellaneous application(s), if any, shall stand disposed of.

(Surya Partap Singh)
Judge

March 06, 2026
“DK”

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