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

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Date of Decision: 09.02.2026

Sukhjinder Singh

..... Petitioner

Versus

Kuldeep Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Dharam Bir Bhargav, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for quashing of Complaint No.NACT/242/2022 dated 14.01.2022 (Annexure P-2) filed by complainant/respondent no.1 under Section 138 of the Negotiable Instruments Act, 1881 titled as **Kuldeep Singh vs. Sukhinder Singh**, and summoning order dated 21.11.2022 and order dated 29.09.2025, whereby, the bailable warrants have been issued against the petitioner and all the subsequent proceedings arising therefrom.

2. At the very outset, learned counsel for the petitioner has submitted that on the very same set of allegations, respondent No. 1 had earlier filed a complaint No. 3289-DCP dated 11.11.2021 before the Commissioner of Police, Jalandhar, pursuant to which FIR No. 161 dated 26.09.2022 under Sections 406, 420, 465, 467, 468 and 471 IPC was registered at Police Station Division No. 6, Jalandhar, District Police Commissionerate, Jalandhar. He submits that the matter has already been investigated and the challan/final report stands presented before the competent Court. He, thus, submits that the initiation of the present



complaint on the same cause of action is nothing but an abuse of the process of the Court. He further submits that the petitioner is admittedly a resident of District Jalandhar, Punjab, whereas the present complaint has been filed before the learned JMIC, Hisar and in these circumstances, compliance with the mandatory provisions of Section 202 Cr.P.C. was required before summoning the petitioner, as he resides beyond the territorial jurisdiction of the said Court. He submits that learned Magistrate was legally required to first conduct an inquiry or order an investigation before issuing summons to the petitioner and thus, the mandatory procedure under Section 202 Cr.P.C. was not followed. He submits that the allegations in the FIR pertain to the alleged fraud committed for an amount of Rs. 10,50,000/- in order to secure admission into BAMS and BHMS courses and these very allegations are the foundation of the present complaint. He submits that once the police machinery has already been set in motion and the matter is *sub judice* pursuant to the filing of the final report, the present complaint is not even maintainable and deserves to be quashed. He has placed reliance on the judgments of Hon'ble Supreme Court in **M/s Pepsi Foods Ltd. & Anr. v. Special Judicial Magistrate & Ors. (1998) 5 SCC 749** and **Fiona Shrikhande vs. State of Maharashtra, AIR 2014 SC 957.**

3. After hearing learned counsel for the petitioner and perusing the record, this Court does not find any merit in the present petition. At the outset, the proceedings arising out of the FIR under the IPC and the complaint under Section 138 of the Negotiable Instruments Act operate in independent fields. The offence under Section 138 of the Act is based upon dishonour of cheque and non-payment of the legally enforceable debt within



the statutory period. The mere pendency of an FIR arising out of separate allegations does not bar the continuation of proceedings under Section 138 of the Act. The contention that the complaint is based upon the same set of allegations is a matter of evidence, which cannot be adjudicated in proceedings under Section 482 Cr.P.C. at this preliminary stage. The petitioner shall have ample opportunity to raise all permissible pleas before the trial Court.

4. Parameters for invoking its power under Section 528 of BNSS, 2023 by this Court, have been laid by Hon'ble Supreme Court in **State of Haryana vs. Bhajan Lal, 1992 Supp (1) SCC 335**, which read as under:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

- (1) “Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police



officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

5. Hon'ble Supreme Court in **Gian Singh vs. State of Punjab and another**, (2012) 10 SCC 303, has further held as under:-

“61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in



quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of



conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

6. Hon’ble Supreme Court in case of **M/s Pepsi Foods Ltd. & Anr. v. Special Judicial Magistrate & Ors. (1998) 5 SCC 749** laid down the golden standard for summoning of a person as an accused in a Court case. Paragraph 28 therein is noteworthy and it reads thus:

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused.



Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

7. Recently, Hon’ble Supreme Court in M/s Shri Om Sales vs. Abhay Kumar @ Abhay Patel and another, Criminal Appeal No. 5588 of 2025, decided on 19.12.2025 while dealing with the issue involved in the present case, has held that it is impermissible for High Court to quash cheque honour proceedings by undertaking a pre-trial inquiry into the disputed facts. The relevant paras thereof are as under:-

“11. The law is well settled that while considering a prayer to quash the criminal complaint and the consequential proceedings at the threshold, the Court is required to examine whether the allegations made in the complaint along with materials in support thereof make out a prima facie case to proceed against the accused or not. If upon reading the complaint allegations and perusing the materials filed in support thereof, a prima facie case is made out to proceed against the accused, the complaint cannot be quashed, particularly, by appreciating the evidence/materials on record because the stage for such appreciation is at the trial. No doubt, in exceptional circumstances, the Court may take notice of attending circumstances to conclude that continuance of the proceedings would amount to an abuse of the process of the Court, or where quashing of the proceedings is necessary to secure the ends of justice.

12. In the instant case, the complaint clearly spells out the



necessary ingredients for commission of an offence punishable under [Section 138](#) of the N.I. Act. It is also alleged in the complaint that the cheque was issued in the discharge of liability qua goods supplied by the complainant. The cheque was brought on record along with the dishonor memo of the bank concerned which Criminal Appeal @ SLP (Crl.) No. 8703/2019 indicated that it was returned unpaid for insufficient funds in the drawer's account. The complaint also indicated that complainant had served notice of demand within the specified period and despite service of notice of demand, no payment was made. In such circumstances, the necessary ingredients of an offence punishable under [Section 138](#) of N.I. Act were disclosed by the complaint warranting issuance of process to the accused (i.e., the first respondent).

13. However, the High Court, in its jurisdiction under Section 482, proceeded to test whether the cheque was issued for the discharge, in whole or in part, of any debt or other liability. In our view, such an exercise was unwarranted because, under [Section 139](#) of the N.I. Act, there is a presumption that the holder of a cheque received the cheque of the nature referred to in [Section 138](#) for the discharge, in whole or in part, of any debt or other liability. This presumption can be rebutted by evidence led in trial. A fortiori, the said issue can appropriately be decided either at the trial, or later, upon conclusion of trial, by the appellate/ revisional court. Criminal Appeal @ SLP (Crl.) No. 8703/2019.”

8. There is no dispute regarding the law relied upon by learned counsel for the petitioner, however, the same are distinguishable in the facts and circumstances of the present case.

9. Thus, it is well settled that the inherent powers of this Court are



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proceedings would amount to abuse of process of law or where no offence is made out. Thus, the present case does not fall within such parameters. Accordingly, finding no ground to interfere, the present petition is hereby dismissed.

09.02.2026
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No