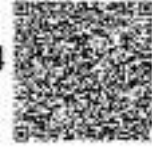


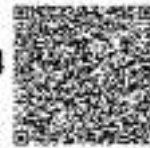
2026.PHHC.081504



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

128

2026.PHHC.081504



CRM-M-11013-2026 (O&M)
Date of decision: 22nd May, 2026

M/s Squarem Bio Organic Pvt. Ltd. and another

...Petitioners

Versus

M/s Proceed Formulations

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Lakshya Saini, Advocate for the petitioners.

MANISHA BATRA, J (ORAL):-

The instant petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of complaint bearing NACT No. 779 dated 16.09.2023 titled as '***M/s Proceed Formulation vs. M/s Squarem BIO Organic Pvt. Ltd. and others***', filed under Sections 138, 141 and 142 of Negotiable Instruments Act, 1881 (*for short 'NI Act'*) read with Section 420 of IPC which is pending before the Court of Judicial Magistrate First Class, Panchkula and the order dated 12.07.2024 (Annexure P-6) whereby the present petitioners had been ordered to be summoned to face trial for commission of aforementioned offences and also for quashing of order dated 28.10.2025, whereby warrants of arrest had been issued against

2026.PHHC.081504

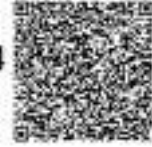


petitioner No. 2.

2. Brief facts of the case relevant for the purpose of disposal of present petition are that the aforementioned complaint has been filed by the respondent, which is engaged in pharmaceutical business, on the allegations that petitioner No.1 (accused No. 1) was a private limited company and petitioner No. 2 (accused No. 2) as well as accused Nos. 3 and 4 were its directors. The petitioner/company used to purchase pharmaceuticals products from the complainant at various intervals. On assurances of the petitioners and other accused, the complainant supplied them pharmaceuticals products in a bona fide intention without collecting full payment of the supplied products. However, the accused failed to make the payment to the complainant. A demand of Rs.9,46,106/- was raised by the complainant and in order to discharge their legally enforceable liability, the accused issued a cheque for a sum of Rs.4,00,000/- to the complainant with an assurance that the same would be honoured with remarks 'payment stopped by drawer'. However, the said cheque had been dishonoured on presentation. Statutory notice was issued against the petitioners but they failed to pay the amount of cheque in question, thereby compelling the respondent to file the aforementioned complaint.

3. On considering the preliminary evidence produced by the respondent, the learned trial Magistrate, vide impugned order dated 12.07.2024, summoned the petitioners to face trial for commission of aforementioned offence punishable under Section 138 of the N. I. Act. Due to

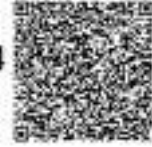
2026.PHHC.081504



non-appearance of the petitioners before the learned trial Court, non-bailable warrants have been issued against petitioner No. 2. Aggrieved from the same, the present petition has been filed.

4. Learned counsel for the petitioners has argued that the impugned complaint as well as summoning order and subsequent proceedings are not sustainable in the eyes of law and continuation of said criminal proceedings would amount to misuse of the process of law. It is submitted that the cheque in question had not been issued towards discharge of any existing or legally enforceable liability but was handed over only as a security cheque during the course of commercial dealings between the parties. It is further argued that after receipt of the pharmaceutical products supplied by the respondent, the petitioners found that the medicines were substandard and unsuitable for marketing purposes. The petitioners also came to know about certain actions taken by the Health Department against entities connected with the respondent and, therefore, requested the respondent to take back the supplied goods and return the security cheque. However, instead of doing so, the respondent presented the cheque for encashment. In view of the dispute regarding quality and acceptability of the goods, petitioner No. 2 instructed the bank to stop payment of the cheque, which was thereafter dishonoured with the remarks "Payment Stopped by Drawer". It is argued that once the underlying transaction itself was disputed and the goods were alleged to be defective, no legally enforceable debt survived on the date of presentation of the cheque and, therefore, the basic ingredients for maintaining proceedings under

2026.PHHC.081504



Section 138 of the N. I. Act were absent. With these broad submissions, it is urged that the petition deserves to be allowed and the impugned complaint as well as the summoning order are liable to be set aside.

5. This Court has heard the submissions made by learned counsel for the petitioner.

6. At the outset, it is to be considered as to whether, the prayer made by the petitioners for quashing of complaint can be considered by this Court in a petition filed under Section 528 of BNSS (*which corresponds to Section 482 of Cr.P.C.*). The Hon'ble Supreme Court has laid down certain conditions whereby the complaint can be quashed by invoking the powers under the above mentioned Section in a case reported as ***Smt. Nagawwa Vs. Veeranna Shivalingappa Konjalzi and others (1976) 3 SCC 736*** which are as follows:-

- (1) Where the allegations made in the complaint or the statements of the witnesses recorded in support of the same, taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused;
- (2) where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the accused;
- (3) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or inadmissible; and
- (4) where the complaint suffers from fundamental legal defects,

2026.PHHC.081504



such as, want of sanction, or absence of a complaint by legally competent authority and the like.

7. Further, the question as to whether the order passed by the Magistrate of issuing summons, can be interfered with, in exercise of powers under Section 482 of Cr.P.C. had also been considered by Hon'ble Supreme Court in ***Bhushan Kumar and another Vs. State (NCT of Delhi) and another (2012) 5 SCC 424*** and in ***M/s Pepsi Food Ltd's case (supra)*** wherein it was observed that a petition filed under Section 482 of Cr,P,C, for quashing an order summoning the accused is maintainable.

8. Similarly, in a judgment of Supreme Court titled as '***Vikas Chandra Vs. State of Uttar Pradesh and another 2024 INSC 261***', where the Hon'ble Supreme Court reiterated the position that the order of issuance of summons could be interfered with by the High Court in exercise of powers under Section 482 of Cr.P.C.

9. In view of the above discussed proposition of law, it is explicit that a complaint can be quashed and an order of issuance of summons can be interfered with by this Court by invoking powers under Section 528 of BNSS/482 of Cr.P.C., however at the same time, it is also to be kept in mind that the inherent jurisdiction under Section 528 of BNSS is to be exercised sparingly and with caution only when such exercise is justified by the test specifically laid down in the section itself. It is well settled proposition of law that an appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of this power and the inherent powers so vested do

2026.PHHC.081504



not confer any arbitrary jurisdiction upon the High Court to act according to whims and caprices.

10. At the outset, it needs to be noticed that the scope of interference under Section 528 of the BNSS (corresponding to Section 482 Cr.P.C.) is limited. The inherent jurisdiction of this Court is to be exercised sparingly and only in cases where the complaint, even if accepted at its face value, fails to disclose commission of any offence or where continuation of proceedings would amount to abuse of process of law. At the stage of issuance of process, the Court is not expected to undertake a meticulous appreciation of evidence or adjudicate disputed questions of fact.

11. The principal submission raised on behalf of the petitioners is that the cheque in question was merely a security cheque and that the medicines supplied by the respondent were substandard and, therefore, no legally enforceable liability survived on the date of presentation of the cheque. However, this contention does not persuade this Court for exercise of inherent jurisdiction. Whether the goods supplied were defective, whether the cheque had been issued only as a security and whether the underlying transaction stood discharged are all disputed questions requiring evidence and cannot be conclusively examined in proceedings under Section 528 of BNSS. Such defences are matters to be established before the trial Court on the basis of evidence and cannot constitute a ground for quashing at the threshold.

12. A perusal of the complaint and the material placed on record prima facie reveals that there existed commercial transactions between the

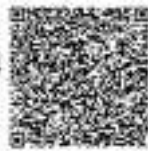
2026.PHHC.081504



parties and a cheque for an amount of Rs.4,00,000/- was admittedly issued on behalf of petitioner No.1-company towards part payment of the alleged outstanding liability. The cheque was dishonoured with the remarks “Payment Stopped by Drawer” and despite service of statutory notice, payment was not made within the prescribed period. These allegations, taken at their face value, satisfy the foundational ingredients necessary for proceeding under Section 138 of the N. I. Act.

13. This Court also finds no merit in the contention raised on behalf of petitioner No.2. From the pleadings in the petition itself, it emerges that petitioner No.2 was not a stranger to the transaction but was the person acting on behalf of petitioner No.1-company and had himself instructed the bank to stop payment of the cheque. The stand taken by the petitioners, therefore, itself indicates that petitioner No.2 was the signatory and authorised person connected with issuance and operation of the cheque in question. Once petitioner No.2 is the signatory to the cheque, the question regarding his liability cannot be adjudicated in favour of the petitioners at this preliminary stage. The learned trial Magistrate, after considering the preliminary evidence and being prima facie satisfied regarding existence of sufficient grounds to proceed, passed the summoning order. No perversity, patent illegality or jurisdictional error has been pointed out so as to warrant interference. The subsequent issuance of warrants against petitioner No.2 also appears to be a consequence of non-appearance before the trial Court and does not furnish an independent ground to quash the complaint itself.

2026.PHHC.081504



14. In view of the above discussion, this Court is of the considered opinion that no ground has been made out for allowing the present petition. Accordingly, the same is dismissed.

15. Needless to observe that any observation made herein is only for the purpose of adjudication of the present petition and shall not be construed as an expression on the merits of the case pending before the trial Court.

[MANISHA BATRA]
JUDGE

22nd May, 2026
Parveen Sharma

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |