



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

192

CRM-M-11635-2026

Date of Decision : 10.03.2026

AMAN TIMBER ENTERPRISES AND OTHERS

...Petitioners

VERSUS

ISHWAR TIMBER COMPANY

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Anshul Mangla, Advocate
for the petitioners.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioners have filed the present petition under Section 528 BNSS, 2023 praying for quashing of complaint bearing NACT No.2699/2025 dated 14.10.2025, titled "*M/s Ishwar Timber Company Vs. M/s Aman Timber Enterprises and others*", as also the summoning order dated 05.12.2025 (Annexure P-3) passed by the learned Judicial Magistrate Ist Class, Yamuna Nagar, vide which petitioners were summoned, in above mentioned complaint, to face trial for the commission of offence punishable under Section 138 of Negotiable Instruments Act.

2. Relevant facts as can be inferred from the documents on record are noticed hereinbelow:-

On 14.10.2025, Sh. Karan Malik, Proprietor of M/s Ishwar Timber Traders filed a complaint under Section 138 of Negotiable Instrument Act against Aman Timber Enterprises.



On the following day, i.e. 05.12.2025, based on the preliminary evidence led by the complainant, the petitioners i.e. Partners and authorized signatory of Aman Timber Enterprises was summoned to face trial under Section 138 of N.I. Act.

It is this order dated 5.12.2025 passed by the JMIC, Yamuna Nagar that has been assailed by petitioners-accused in the present petition.

3. Learned counsel for the petitioner submits that impugned order passed by the learned JMIC is unsustainable in law as the mandatory requirements of Section 223 of the BNSS were not complied with before taking cognizance of the offence. Section 223 of BNSS reads as under:-

(1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate.

4. It is thus clear that prior to passing of the summoning order, the Magistrate has to issue notice to the accused who has to be afforded with an opportunity of being heard. Admittedly in the present case, the requisite procedure has not been followed. In view thereof, the matter is remanded back to learned Judicial Magistrate 1st Class, Yamuna Nagar with a direction to follow/comply with the requirement of Section 223 of BNSS as also to hear petitioners - accused before proceeding further.

5. Parties are directed to appear before the Court of learned JMIC, Yamuna Nagar within a period of 10 days. However, in case the parties do not appear on the stipulated date, let fresh notice be issued.



6. Petition is disposed of with the aforesaid observation. Pending application, if any, also stands disposed of.

(AARADHNA SAWHNEY)
JUDGE

10.03.2026
Nisha Yadav

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>