



CRM-M-16128-2025(O&amp;M)

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

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CRM-M-16128-2025(O&amp;M)

Decided on: 08.04.2026

CAPACITE INFRAPROJECT LTD AND ANR

.....Petitioner

Versus

M/S NEO TECHNO COMPANY

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present: Mr. Abhay Singh, Advocate and  
Mr. Abhijeet Sohal, Advocate for the petitioner.

Mr. Vishwender Verma, Advocate (through V.C) and  
Mr. Abhinav Bali, Advocate for the respondent.

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**SANJAY VASHISTH, J.**

1. Prayer in the present petition under Section 528 of BNSS, 2023, is for quashing/setting aside criminal complaint bearing NACT No.70 of 2024 titled as 'M/s Neo Techno Company vs. Capacite Infraproject Ltd. and anr.' pending in the Court of learned Judicial Magistrate 1st Class, Faridabad and all consequential proceedings arising therefrom, including the summoning order dated 06.03.2024 (Annexure P-10) vide which, petitioners have been summoned to face trial for an offence under Section 138 of Negotiable Instrument Act.

2. Counsel for the petitioner contends that prior to the deposition in preliminary evidence by the complainant and thereon issuance of summoning order dated 06.03.2024, complete cheque amount had been paid to the complainant-respondent herein, but said fact has neither been brought to the notice of the Court at the time of deposition



nor at the time of issuance of the summoning order. Thus, conduct of the respondent itself is doubtful.

3. After issuance of notice to the respondent, M/s Neo Techno Company (complainant), petition was again taken up for hearing on 10.11.2025 and trial Court was directed to forward a report regarding the submissions made by the petitioners, as recorded in the order dated 03.04.2025. Respondent-complainant was also directed to file an affidavit stating whether the contentions raised by the petitioners in the order dated 03.04.2025 were correct or not. An affidavit dated 04.12.2025 is available on record.

4. In paragraph 3 of the affidavit, it has been stated that petitioner-accused has a liability of Rs. 69,13,848/-, which was the subject matter of a civil suit. Subsequently, a Memorandum of Understanding (MoU) was executed, and upon its execution, the civil suit was disposed of.

5. Further, in paragraph 3 of the affidavit, respondent-complainant has accepted that the payment was made after the filing of the complaint case, but contends that the respondent cannot be compelled to settle the matter solely on the basis of such payment. Paragraphs 2 and 3 of the affidavit dated 04.12.2025 read as under:

*“2. That the complaint case was filed against the petitioner on dishonor of cheque which was issued in discharge of liability by the petitioner. The petitioner is bound to comply with the provisions of MOU as the same was agreed by the petitioner when the respondent filed*



*commercial civil suit under section 12A of commercial court act and petitioner violated the same.*

3. *That there were admitted liability by the petitioner for a sum of Rs. 69,13,848/- in the civil suit and thereafter the matter was settled as per MOU. There was an specific condition that incase the cheque mentioned in MOU's dishonored, the MOU shall be void and respondent shall forfeit the payment and the petitioner shall be bound to make payment of entire due amount as per certified invoices therefore the cheque mentioned in the complaint dishonored. Inspite of notice under section 138 NI Act, the petitioner/accused failed to make the payment of the dishonored cheque and hence offence under section 138 NI Act made out. It is submitted that the payment was made after filing the complaint case and the respondent cannot be compelled to settle the matter only on the basis of the payment. Even though the honble supreme court of India in Raj Reddy Kallem Vs State of Haryana held that mere repayment of the amount cannot mean that the accused person is absolved from the criminal liability under section 138 NI Act. it is also submitted that some other cheque was also dishonored."*

6. During the course of hearing, to highlight the conduct of the respondent-complainant, learned counsel for the petitioner produced a copy of the order dated 29.11.2025 passed by the learned Judicial Magistrate First Class, Faridabad, and submitted that, in the ongoing proceedings under the Negotiable Instruments Act arising from the dishonour of a cheque amounting to Rs. 17 lakhs, complainant is acting inconsistently and is not even willing to give a categorical statement as to when the said amount was actually received.



7. Learned counsel for the petitioner further submitted that, in fact, complainant succeeded in getting the petitioner summoned even though the cheque amount had been paid much prior to the issuance of the summoning order. However, complainant deliberately failed to disclose this fact to the summoning Court, i.e., learned Judicial Magistrate First Class, Faridabad. Order dated 29.11.2025 reads as under:

*“ Present: Sh. Vishwendra Verma(through VC),  
Advocate for the complainant*

*Sh. Manish Sharma, Advocate for the accused.*

*1. The learned counsel on behalf of the accused has appeared and has submitted before the Court that on 03.04.2025, the Hon'ble High Court has directed the complainant to give statement before the Court with respect to the fact that before issuance of cheque dated 17.08.2023, the entire payment of the cheque has been received by the complainant from the accused. Learned counsel has further submitted that the complainant is not giving statement as he was supposed to be given in compliance of the order of Hon'ble High Court.*

*2. On the other hand, learned counsel on behalf of the complainant has submitted before the Court that the Court cannot pressurize the complainant to give any specific statement. The complainant has also submitted that he is not required to give any such statement.*

*3. I have heard the submissions of both the parties.*

*4. Perusal of the order dated 03.04.2025 shows that as per the Order of Hon'ble High Court, the complainant was required to depose on the fact that whether the complete cheque amount has been paid by the accused to the complainant prior to the issuance of summoning order dated 06.03.2024. However, the complainant has refused to make*



*such statement with respect to the specific fact that as to whether prior to the issuance of the summoning order dated 06.03.2024 he had received entire payment of cheque-in-question. At this stage, complainant has submitted that he is ready to give statement with his consent. Statement in this regard has also been recorded separately. Complainant has submitted that he has not received any payment for the cheque-in-question within 15 days of the cheque dishonored. He had further stated that the settlement deed became void as the accused violated the terms and conditions of the agreement. He had further stated that the payment was not released of the cheque amount within 15 days and the amount which released in January was a part of outstanding balance payment as mentioned in the agreement i.e. more than 69,00,000/-. He had further stated that the accused is liable to make payment of the total amount and cheque amount shall be adjusted towards the liability.*

5. *On the other hand, learned counsel on behalf of the accused has submitted before the Court that he has evidence to prove that an amount of cheque-in-question has already been received by the complainant prior to the date of summoning order. Further, learned counsel on behalf of both the parties has submitted before the court that the present case is pending before Hon'ble High Court for submission of affidavit of complainant on 05.12.2025. Learned counsels have sought adjournment after 05.12.2025. In the interest of justice, case is adjourned to 20.12.2025 for consideration.”*

8. During the course of hearing, trial Court was also directed to forward a report in this regard. Pursuant thereto, report dated 07.03.2026 has been forwarded to this Court by the Court of the Judicial Magistrate First Class, Faridabad (trial Court), and relevant part thereof reads as under:



*“2. The complainant had mentioned in his statement that he had not received the payment in lieu of the cheque within 15 days of the dishonour of the cheque. He had further mentioned that there was a settlement deed between the complainant and the accused. However, the accused had violated the terms of the said settlement. Further the complainant has also tendered his affidavit Annexure IV dated 27.02.2026. It was also mentioned by the complainant that the amount which was released by the accused was a part payment on the outstanding balance amount as mentioned in the agreement which was more than Rs. 69,00,000/-. The complainant had also mentioned that the accused is liable to make payment of the total amount and the cheque amount shall be adjusted towards the liability.*

*3. On the other hand, the accused had submitted before the Court that he has evidence to prove that the amount of cheque-in-question has already been paid to the complainant prior to the date of the summoning order.*

*4. It is pertinent to note that as per the version of the complainant, the accused had violated the terms and conditions of the agreement which was executed between the complainant and the accused. Perusal of the case file shows the copy of the agreement between the complainant and the accused has been placed upon file as Ex.C1.*

*5. As per the settlement terms of the agreement Annexure I, it was agreed between the parties that the accused will make full and final payment with respect to the work orders for the amount of Rs. 53.81.260/- (the settlement amount). The said payment was to be paid in three installments as mentioned in para no.2 of the settlement agreement. Further, the amount of cheque-in-question i.e Rs. 17,26,086/- is one of the installments of the settlement amount.*



6. *As per the version of the complainant, he had received part payment, however, he had not received the payment of cheque-in-question. On the other hand, the accused had mentioned that he has evidence to prove that he had already paid the amount of cheque-in-question prior to the date of the summoning order.*

7. *However, at this stage, there is no evidence on the case file which proves the fact that the complainant has received the amount of cheque-in-question. Further, in order to decide the fact that the complainant had received the amount of cheque-in-question the same can only be decided after the completion of trial.*

8. *The report along-with order of the Link Court dated 29.11.2025 as Annexure-II as well as the statement of the complainant in original as Annexure - III and original statement along with affidavit of complainant namely Krishanu Mukhopadhyay, AR of M/S Neo Techno Co. as Annexure IV are hereby sent to Hon'ble Punjab & Haryana High Court for kind perusal."*

10. During the course of hearing, learned counsel for the petitioner continued to contend that once the MoU dated 08.07.2023 had been executed, and the factum of payment of the amount which is the subject matter of the cheque in question stood incorporated therein, the said amount must be deemed to have been paid in advance. It was further argued that if any balance amount remained payable pursuant to the finally settled amount of Rs. 53,81,260/-, the same could not be construed as forming part of the liability in respect of which the cheque in question had been issued and subsequently dishonoured.

However, upon it being pointed out by learned counsel for the respondent-complainant that the MoU/settlement arrived at between





the parties in the civil proceedings had not been fully complied with, and therefore, as of now, no such MoU/settlement subsists between the parties, learned counsel for the petitioner fairly conceded to the said factual position. Nevertheless, he maintained that prior to the rescission of the MoU, cheque amount in question had already been paid, and therefore, proceedings in the present case cannot be permitted to continue any further.

11. Learned counsel for respondent–complainant reiterated his submission that once MoU dated 08.07.2023 stood rescinded, any factual recital contained therein would lose its evidentiary value for the purpose of asserting that the cheque amount had already been paid, particularly when, as a matter of fact, the settled amount was substantially higher than the amount admittedly payable by the petitioner–accused.

12. I have considered the submissions advanced by learned counsel for the respective parties and have also perused the paper-book along with the documents appended thereto.

13. As per the report dated 07.03.2026 submitted by the learned Magistrate and forwarded to this Court, there is no evidence on record to establish that the amount involved in the cheque in question has ever been received by the respondent–complainant. Accordingly, this Court is in agreement with the factual position as reflected in the record and as reported by the learned trial Court. The issue, being a question of fact, necessarily requires proof by way of evidence and can only be adjudicated upon completion of trial.





The precedents relied upon by learned counsel for the petitioner, namely:

***(i) S.P. Chengalvaraya Naidu (Dead) by LRs vs. Jagannath (Dead) by LRs & Ors., (1994) 1 SCC 1;***

***(ii) Krishan Lal Chawla & Ors. vs. State of Uttar Pradesh & Anr., (2021) 5 SCC 435; and***

***(iii) Rekha Sharad Ushir vs. Saptashrungi Mahila Nagari Sahkari Patsanstha Ltd., (2025) SCC OnLine SC 641,*** are distinguishable on facts and do not advance the case of the petitioner in the context of the present matter.

14. At this stage, it cannot be concluded that the complaint filed by the respondent is frivolous litigation. On the contrary, the matter involves disputed questions of fact which require adjudication on the basis of evidence yet to be led by the parties.

Rather, this Court finds that the petitioners have approached this Court by way of a misconceived petition, without placing on record any satisfactory and unimpeachable documentary evidence to substantiate the alleged payment of the cheque amount, as has also been noted in the report of the learned Magistrate. Accordingly, present petition stands dismissed.

**(SANJAY VASHISTH)**  
**JUDGE**

**April 08, 2026**  
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Whether Speaking/Reasoned: **YES/NO**  
Whether Reportable: **YES/NO**