

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2026:PHHC:064223



146

CRM-M-23342-2026 (O&M)
Date of decision:27.04.2026

Manmohan Singh

... Petitioner

Vs.

Tek Chand Saini

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Shantanu Bansal, Advocate for the petitioner.

...

Manisha Batra, J. (Oral).

1. In the instant petition filed under Section 528 of the BNS, petitioner is seeking quashing of order dated 03.04.2026 as passed by the Court of learned Additional Sessions Judge, Ambala in criminal appeal bearing No.CRA-202-2025 titled as 'Manmohan Singh Vs. Tek Chand Saini', whereby the application filed by the petitioner for granting him permission to produce by way of additional evidence, Income Tax Returns (ITRs) of the respondent/complainant for the relevant assessment years, had been declined.

2. Brief facts relevant for the purpose of disposal of this petition are that the respondent – Tek Chand Saini filed a complaint under Section 138 of the Negotiable Instruments Act against the present petitioner, alleging that he had issued a cheque for a sum of Rs.7 lakhs to discharge his

legally enforceable liability and the said cheque has been dishonoured. The petitioner faced trial in the abovesaid complaint and had been held guilty and convicted vide judgment dated 02.06.2025 passed by the learned jurisdictional Magistrate.

3. During the pendency of the criminal appeal filed by the petitioner, he moved an application under Section 432 of the BNSS seeking permission to produce by way of additional evidence ITRs for the relevant assessment years pertaining to the complainant and also to direct the respondent/complainant to disclose his PAN number etc. so that the ITRs could be summoned from the concerned office. The said application had been dismissed by the learned Appellate Court by passing the impugned order dated 03.04.2026 and feeling aggrieved of the same, this petition is filed.

4. It is argued by learned counsel for the petitioner that the impugned order is not sustainable in the eyes of law as the same is based on conjectures and surmises and is not well reasoned one. The proposed additional evidence was required for just decision of the appeal as pending before the learned Appellate Court but this fact has not been taken into consideration. Moreso, the proposed evidence went to the root of the matter as the same would have established the financial capacity of the complainant so as to enable the petitioner to rebut the statutory presumption under Section 139 of the Negotiable Instruments Act but he has been deprived of that opportunity. It is, as such, urged that the impugned order is liable to be set aside, the petition deserves to be accepted and that he deserves to be extended an opportunity to produce by way of additional evidence, the ITRs

of the complainant to prove his financial capacity. To buttress his argument, learned counsel for the petitioner has placed reliance upon the authorities cited as **Raj Kumar Sharma Versus Mukesh Panchal, 2023 NCPHHC 38923, Darshan Kalra Versus Amit Oberoi** passed in **CRM-A-1880-MA-2017** and **Naval Kishore Vs. Kuldeep Singh Kharbanda** passed in **CRR-3381-2016**.

5. This Court has heard the rival submissions made by learned counsel for the petitioner at considerable length besides going through the material placed on record.

6. On a perusal of the impugned order, it is revealed that the petitioner sought permission to produce by way of additional evidence, the ITRs of the respondent/complainant for the relevant assessment years for the purpose of showing his financial capacity to advance the alleged amount of Rs.7.25 lakhs to the petitioner. The learned Appellate Court had observed that the petitioner had been granted full opportunity to seek production of the abovesaid ITRs at the stage of trial itself. He had not given any satisfactory explanation, much less any justification demonstrating due diligence to show as why such documents were not produced or sought to be produced during trial. No doubt, under Section 432 of the BNSS, the Court is empowered to ask for production of additional evidence if such evidence is required for just decision of the case. However, it is equally well settled that the power to accord permission to lead additional evidence at the Appellate stage is to be exercised if it serves the ends of justice and does not cause prejudice to the opposite party. An evidence which amounts to change the nature of the case or amounts to re-trial should not allowed. The

respondent/ complainant had produced evidence in support of his case before the learned trial Court. The petitioner was obviously granted full opportunity to cross-examine the witnesses of the respondent/complainant and to produce his own evidence. However, the petitioner did not avail the opportunity of producing the proposed evidence at that time and has also not offered any explanation as to why he did not do so. After recording finding of his conviction, the appellant wants to get the ITRs of the complainant summoned and to produce the same on record obviously to establish that the complainant/respondent did not have financial capacity to lend the amount of money which was given by cheque to the petitioner. The proposed additional evidence is sought to be produced obviously with an intent to fill up the lacuna in his case and to cause prejudice to the respondent/complainant. This Court finds no compelling ground to allow this petition as the order passed by the learned Appellate Court is well reasoned and warrants no interference. Accordingly, the petition is dismissed.

7. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

27.04.2026

harjeet

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