



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

Sr. No.141

**CRM-M-28820-2026
Date of Decision: 21.05.2026**

ANIL KUMAR DUA

...Petitioner

Versus

GURMEHAR SINGH

....Respondent

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present:- Mr. Saurabh Garg, Advocate
for the petitioner.

MANDEEP PANNU, J. (Oral)

1. The present petition has been filed under Section 528 BNSS (earlier Section 482 Cr.P.C.) for quashing of impugned order dated 10.04.2026 (Annexure P-6) passed by the learned Judicial Magistrate Ist Class, Kaithal, whereby in complaint under Section 138 of the Negotiable Instruments Act bearing No. NACT-241/2019 dated 12.02.2019 instituted by the respondent, the application (Annexure P-4) filed by the petitioner for recalling the complainant as witness and for permission to further cross-examine the complainant/witness namely Gurmehar Singh (CW-2) by confronting him with the call recording, has been dismissed.

2. In the complaint under Section 138 of the Negotiable Instruments Act, an application for recalling of witness and permission to further cross-examine the witness/complainant namely Gurmehar Singh (CW-2) by putting up the call recording, was filed by the accused/present petitioner. In the said application, it was averred that the statement of the



complainant as CW-2 had already been recorded and thereafter the complainant had closed his evidence. It was further pleaded that on 19.09.2025, the petitioner had a telephonic conversation with the complainant, during which the complainant allegedly admitted that there was no liability of the accused towards him and the said conversation was recorded in the mobile phone of the petitioner. It was contended that since the said call recording came into existence after the cross-examination of CW-2 had already been conducted, the same could not be put to the complainant earlier. Accordingly, the petitioner sought recalling of the complainant for further cross-examination by confronting him with the said call recording in order to prove the defence and to establish the falsity of the allegations levelled in the complaint.

3. Upon notice, reply to the said application was filed by the complainant/respondent, wherein preliminary objections were raised regarding the maintainability of the application. It was contended that the case was already fixed for defence evidence and the present application had been filed at a highly belated stage after availing several opportunities, only with a view to delay the trial proceedings. It was further submitted that the complainant had already been duly cross-examined at length and no ground existed for recalling him for further cross-examination. On merits, the allegations regarding the alleged telephonic conversation and admission of no liability were specifically denied. The complainant further alleged that the petitioner was adopting false and frivolous pleas only to mislead the Court and prolong the proceedings. Learned JMIC vide the impugned order dismissed the aforesaid application by observing that the complainant had



already been duly examined and extensively cross-examined by the accused and thereafter the complainant had closed his evidence, while even the statement of the accused under Section 313 Cr.P.C. had already been recorded and the case was fixed for defence evidence. It was further observed that the ground taken by the accused for recalling of the complainant was based upon an alleged call recording which allegedly came into existence after the cross-examination of the complainant, however, merely on the basis of such subsequent development, the complainant could not be recalled at such a belated stage, particularly when sufficient opportunities had already been availed by the accused to cross-examine the witness. The learned trial Court further observed that the power to recall a witness is to be exercised sparingly and only when it is essential for the just decision of the case and the present application appeared to have been moved only with a view to prolong the trial and delay the proceedings. Consequently, the application filed by the petitioner/accused was dismissed.

4. It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present complaint and that the cheque in question was misused by the complainant. It has further been argued that the petitioner had never borrowed any amount from the complainant and the cheque had originally been handed over in connection with proposed business transactions relating to kiriyana goods. Learned counsel further submits that during a telephonic conversation dated 19.09.2025, the complainant allegedly admitted that no liability was due against the petitioner and, therefore, in order to effectively prove his defence and rebut the statutory presumptions under Sections 118 and 139 of the



Negotiable Instruments Act, recalling of the complainant for further cross-examination by confronting him with the said call recording was necessary. It has thus been prayed that the impugned order passed by the learned trial Court dismissing the application for recall of witness be set aside.

5. I have heard learned counsel for the parties and have gone through the record of the case with their able assistance. This Court finds no merit in the present petition. A perusal of the record would show that the complainant had already been extensively cross-examined by the petitioner/accused and thereafter the complainant had closed his evidence on 08.07.2025 after availing numerous effective opportunities. Even the statement of the accused under Section 313 Cr.P.C. had already been recorded and the matter was fixed for defence evidence. It is only thereafter, at the fag end of the trial, that the present application for recalling the complainant came to be filed by the petitioner on the basis of an alleged call recording stated to have been made subsequently.

6. The power to recall a witness is discretionary in nature and is required to be exercised sparingly and only in cases where such recall is essential for the just decision of the case. The said provision cannot be permitted to be invoked in a routine manner so as to fill up lacunae in the defence or to unnecessarily prolong the trial proceedings. In the present case, sufficient and adequate opportunities had already been granted to the petitioner to cross-examine the complainant and no ground is made out showing that denial of further opportunity has caused any prejudice affecting the fairness of the trial.



7. This Court is further of the considered opinion that merely because the petitioner claims to have recorded a subsequent telephonic conversation with the complainant after conclusion of his cross-examination, the same by itself does not create an indefeasible right in favour of the petitioner to seek recall of the complainant. The alleged call recording is not part of the original transaction in question and is stated to have come into existence much after closure of the complainant’s evidence. Moreover, the petitioner is not remediless, as he is otherwise at liberty to lead the said call recording, if so advised and otherwise admissible in evidence, during his defence evidence in accordance with law.

8. Therefore, recalling of the complainant at this advanced stage of the proceedings is neither necessary for the just decision of the case nor warranted in the facts and circumstances of the present matter. Permitting such recall at this belated stage would unnecessarily reopen the trial, cause delay in conclusion of proceedings and defeat the object of expeditious disposal of complaints under Section 138 of the Negotiable Instruments Act.

9. Hence, no interference is called for in the impugned order passed by the learned trial Court.

10. Accordingly, the present petition is dismissed.

11. However, it is clarified that nothing observed herein shall be construed as an expression on the merits of the case.

12. All pending applications, if any, also stand disposed of.

21.05.2026

Anu

Whether speaking/reasoned

:

Whether reportable

:

(MANDEEP PANNU)

JUDGE

Yes/No

Yes/No