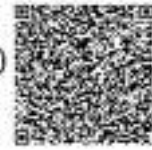


**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

2026.PHHC.078300



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CRM-M-37755-2025 (O&M)**Date of decision : 19.05.2026****Dalbir****...Petitioner****Versus****State of Haryana and others****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Parveen Chauhan, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashing/setting aside of the order dated 24.05.2023 (Annexure P-1) passed by the learned Sub Divisional Judicial Magistrate, Siwani in Criminal Complaint No. CRM-46-2018, titled as ***Dalbir v. Dalbir and others***, filed under Sections 420, 467, 468, 471, 120-B, 506, 392, 347 and 348 of IPC, whereby the said complaint filed by the petitioner was dismissed at the preliminary stage without summoning the accused persons. The petitioner has also challenged the order dated 16.11.2024 (Annexure P-3) passed by the learned Additional Sessions Judge, Bhiwani in CRR No. 90 of 2023, titled as ***Dalbir v. Dalbir and others***, vide which the revision petition preferred by the petitioner against the aforesaid

order was dismissed and the order of the learned trial Court was upheld.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the petitioner/complainant had filed the aforementioned complaint with the allegations that accused No.1-Dalbir agreed to sell a truck bearing registration No. HR-61B-3098, Model 2006, for a total sale consideration of Rs.5,55,000/-. Out of the said amount, Rs.3,00,000/- was paid by the petitioner to accused No.1 and the remaining amount was agreed to be paid after sanction of a loan. Pursuant to the agreement, accused No.1 got the registration certificate of the vehicle transferred in favour of the petitioner.

Thereafter, accused No.1 took the petitioner to the office of accused No.2-Ramesh Kothari, proprietor of Kothari Finance, for sanctioning of a loan. It was alleged that a loan file of Rs.7,00,000/- was prepared by the employees of accused No.2 and during the said process, accused No.2 obtained six blank signed cheques from the petitioner. An amount of Rs.2,50,000/- was thereafter transferred into the account of the petitioner, out of which Rs.2,00,000/- was paid to accused No.1 towards the remaining sale consideration. It was further alleged that accused No.2 also obtained signatures of the petitioner on 3-4 blank papers on the assurance that the same were required for release of the remaining loan amount. The petitioner further alleged that when he approached accused No.2 on 22.06.2013 for release of the remaining loan amount of Rs.4,50,000/-, he was informed that accused No.3-Shri Ram Finance, already had an outstanding loan against the said vehicle. It was alleged that accused No.2 and his employees thereafter snatched an amount of Rs.50,000/- as well as the vehicle in question from the petitioner and also threatened him to return the amount already received by him, failing which he

would be implicated in a false case of cheating. It was also disclosed to the petitioner that the accused persons were already aware of the previous loan existing on the vehicle. On coming to know about the alleged cheating and fraud committed by accused Nos.1 to 3, the petitioner made several oral as well as written complaints to the police authorities. However, no action was taken by the police authorities. Thereafter, a criminal complaint was filed by the petitioner in which directions for registration of FIR were issued. However, the police filed a cancellation report on the ground of lack of jurisdiction. The petitioner, thereafter, submitted several representations to higher police officials and also approached the CM Window, pursuant to which an FIR was ultimately registered at Police Station Siwani after about four years. It was further alleged that even thereafter the police officials, in collusion with the accused persons, prepared another cancellation report to shield the accused persons, thereby compelling him to file the aforesaid complaint.

3. After presentation of the complaint, in preliminary evidence, the petitioner appeared as CW-1 and examined EASI Kishor Kumar as CW-2, Sita Ram as CW-3, Ishwar Singh as CW-4, EHC Rajesh Kumar as CW-5, HC Bijender Singh as CW-6, Ct. Avkash as CW-7, Vinod Kumar as CW-8 and Mahabir Singh as CW-9. The petitioner also tendered various documents and representations addressed to different authorities including the DGP Haryana, SHO Bhiwani, CM Window and other police officials. However, the learned Sub Divisional Judicial Magistrate, Siwani vide order dated 24.05.2023 dismissed the complaint at the preliminary stage holding that no prima facie case was made out against the accused persons. The operative part of the order dated 24.05.2023 reads as under:

“6. Now the court has to see whether prima facie case is made out against the all accused persons to summons them to face trial under sections 420, 467, 468, 471, 120B, 506, 392, 347, 348 of IPC or not. By virtue of present complaint it has been alleged by the complainant that accused no. 1 agreed to sell truck no. 2515 TC, bearing registration No. HR-61B-3098, Engine No. B591452060F62485280, Chesis No. 426031 FTZ 730897 Model 2006 in the total sum of Rs. 5,55,000/- out of which Rs. 3,00,000/- were given by the complainant in cash and remaining amount of Rs. 2,55,000/- was to be given after getting the loan sanctioned of said amount. Further it has been mentioned by the complainant in the complaint that he got prepared loan file from accused no. 2 Kothari Finance of Rs. 7,00,000/- out of which only Rs. 2,50,000/- were transferred in his account, out of which Rs. 2,00,000/- were transferred in the account of accused no. 1. Meaning thereby, it has been admitted by the complainant himself that he got sanctioned loan of Rs. 7,00,000/- from accused no. 2, out of which Rs.2,50,000/- were transferred in his account. There is no such document on the case file on the basis of which it can be presumed that said amount of Rs. 2,50,000/- was refunded by the complainant to the accused no. 2 or not. Even, complainant fails to produce on record loan file of abovesaid amount of Rs. 7,00,000/- so that this court could examine how much money was transferred in favour of complainant or how much amount of loan was sanctioned. Complainant has been alleging that accused no. 2 had received 6-7 blank signed cheque as well as got his signature on some blank papers, however, it is difficult to understand that as to why he had handed over those blank signed cheque or put his signature on blank papers. He must have opposed it. Even, those documents have not been placed and proved on record by the complainant in original which have alleged to be prepared by making forgery by the accused persons by summoning the same. Without examining those alleged forged documents, no interference can be withdrawn of making forgery. Further, before filing this complaint, matter was investigated by the police also in which also it has been mentioned that no forged documents were prepared by the accused persons.

7. So far as the collusion of the police official with the accused person is concerned, then there is no such evidence on case file on the basis of which it can be presumed that any police official have

colluded with any of the accused. There is no call detail or any recording or any other evidence of the accused with any official.

8. Further, one document has been paced on record by the complainant Ex. C19 of dated 11.07.2015. From the perusal of this document, it is evident that civil suits pertaining to the ownership of vehicle in question are pending in the Civil Court of Gujrat State as well as in Haryana in District Bhiwani. These facts have not been disclosed by the complainant in this case. Even till today, after passing of approximately six years, no such documents pertaining to those civil cases have been produced on record by the complainant. Moreover, accused no. 5 is the public servant, however, no sanction against him has been taken by the complainant from the competent authority before prosecuting him. In all these circumstances, it can be said that no prima facie case is made out to summon the accused for any cheating or making forgery. Without any corroborative evidence, there are only bare allegations against the accused persons. Without any prima facie document and expert report, it can not be said that any forgery has been made. Accordingly, present complaint is hereby dismissed. File be consigned to record room after due compliance.”

4. The revision petition preferred by the petitioner against the said order also came to be dismissed by the learned Additional Sessions Judge, Bhiwani vide order dated 16.11.2024. The operative part of the order dated 16.11.2024 reads as under:

“8. After hearing the learned counsel for the revisionist and going through the record of the case, this court is of the considered opinion that there is no doubt in the legal proposition as has been cited by the learned counsel for the complainant that at the stage of summoning prima facie case has to be considered as to whether the allegations as has been levelled against the accused have been proved prima facie, but it does not mean that whether it having been established that the proposed accused ought to be summoned mechanically. It has been alleged by the complainant that accused No.1 agreed to sell Truck No.2515 TC, bearing registration No.HR-61B-3098, Engine No.B-591452060F62485280, Chassis No.426031 FTZ 730897 Model 2006 to the complainant for which Rs.3,00,000/- were given by the complainant in cash and the remaining amount of

Rs.2,55,000/- was to be given after getting the loan sanctioned. He has alleged that he got prepared the loan file from accused No.2 Kothari Finance for Rs.7,00,000/- out of which Rs.2,50,000/- were transferred in his account and Rs.2,00,000/- were transferred in the account of accused No.1 meaning thereby he has admitted about the due sanction of loan of Rs.7,00,000/- from accused No.2 and the receipt of Rs.2,50,000/- from accused No.2 by him. Despite having raised allegations accused the accused, he has not proved the loan documents and there is no evidence adduced by him to show that the amount of Rs.50,000/- have been refunded by him to accused No.2 and has merely contended that the amount of Rs.7,00,000/- has not been taken by him. There is no illegality or infirmity in the findings of the learned trial court whereby it has been observed that the complainant has failed to prove that his blank cheques have been misused as he has failed to explain why he has given the blank signed cheques nor he has placed on record any document so as to suggest forgery by the accused persons and merely contending the same is not sufficient. There are no document proved on the record which can be said to be forged and rightly no inference has been drawn of forgery by the learned trial court. There is no evidence altogether to show the collusion of the police officials with the accused persons and also in this regard no such presumption can be raised that the police official have colluded with the accused. Ex.C19 reflects the civil suit pertaining to the ownership of the vehicle to be pending before the Civil Court at Gujarat as well as in Haryana and complainant has not approached the court with clean hands and has not disclosed about it in his complaint and rightly learned trial court has observed that despite several years if pursuing the complaint no such document pertaining to the civil suit have been placed on the record by the complainant. Also, there is no illegality in the findings of the learned trial court when it has considered that accused No.5 is a public servant and no prior sanction against him as is mandatory under Section 195 CrPC has been obtained prior to him being prosecuted for which reason rightly the complaint has been dismissed by learned trial court observing that no prima facie case is made out to summon the accused for any offence for cheating or forgery as prior sanction cannot be said to take place.

9. It is further made clear that the exercise of judicial authority is not show of strength, but a duty to be performed with humility and yet

firmness. If summoning order is passed in such cases, it would definitely amount to curtailment of a person's liberty with the sledge of a hammer, which does not concur with judicial discretion vested while exercising criminal power by Courts. It has always been emphasized that Courts administering justice on criminal side must always remain alive to the presumption of innocence, which is the hallmark of the criminal jurisprudence and thus a natural consequence is that the aim of any criminal proceeding is not to humiliate or harass the person. In ***G. Sagar Suri and another Vs. State of U.P. and others, 2000 (1) RCR (Criminal) 707 (SC)***, it is observed that it is the duty and obligation of the criminal Court to exercise a great deal of caution in issuing the process particularly when matters are essentially of civil nature. In ***Inder Mohan Goswami Vs. State of Uttaranchal, 2007 (4) R.C.R. (Criminal) 548 (SC)***, it is observed that the Court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressure the accused. In ***Bhushan Kumar Vs. State (NCT of Delhi) 2012(2) R.C.R.(Criminal) 794 (SC)***, it is observed that Once the Magistrate has exercised its discretion, it is not for the High Court, or even Supreme Court, to substitute its own discretion for that of the Magistrate or to examine the case on merits with a view to find out whether or not the allegations in the complaint, if proved, would ultimately end in conviction of the accused.

10. It is quite settled preposition of law that complainant is required to bring sufficient material against a person, who may be summoned to face inquiry in criminal case, as summoning order cannot be passed mechanically. In case, summoning order is passed without having substantial material mechanically, then it would amount to misuse of process of law and would also encourage frivolous complaints under Section 200 of the Code of Criminal Procedure. It may not be out of place to mention here that it is the trial court, who has to see the substantial material whatsoever put forth by complainant before summoning any person as accused in a criminal case. Looking into entire facts and circumstances, it can be safely said that Learned Trial Court has considered the entire preliminary evidence, while discarding the story put forth by complainant, in right perspective. Thus, this revisionary Court does not see any illegality or infirmity or irregularity while declining the request to

summon respondents as accused. In this way, the preliminary evidence adduced by complainant and overall facts and circumstances do not make out any scope of interference by this revisionary court.

11. Keeping in view the aforesaid facts and law, this court does not find any illegality and infirmity in the order of dismissal of the complaint of the complainant. The impugned order passed by the Learned Trial Court dismissing the complaint of the complainant/revisionist is affirmed and the revision petition filed by the revisionist is dismissed as such.”

5. Aggrieved against the aforesaid orders, the petitioner has approached this Court by way of the present petition.

6. Learned counsel for the petitioner has argued that the impugned orders are not sustainable in the eyes of law as while passing the same, the Courts concerned failed to appreciate the settled principles governing summoning of accused persons in a private complaint and erroneously dismissed the complaint despite sufficient oral as well as documentary evidence available on record. It was argued that at the stage of summoning, the Court is only required to see whether a prima facie case is made out and not to meticulously examine the evidence as if conducting a trial. It is further argued that the petitioner had specifically deposed regarding the fraudulent transaction entered into by accused No.1 and the manner in which accused No.2 obtained blank signed cheques and blank papers from the petitioner under the guise of processing the loan. Learned counsel argued that the accused persons, in connivance with each other, manipulated forged documents and cheated the petitioner by concealing the existence of a prior loan over the vehicle in question. Despite repeated complaints made by the petitioner to various authorities, no fair investigation was conducted and the police officials, in collusion with the accused persons, repeatedly filed

cancellation reports in order to shield the accused persons. It is also argued that the benefit of a faulty or biased investigation could not be granted to the accused persons and the Courts concerned failed to appreciate this aspect in its correct perspective. The petitioner had examined as many as nine witnesses and proved several documents, which clearly established the commission of cognizable offences by the accused persons. However, the learned Courts concerned brushed aside the said evidence without proper appreciation and passed the impugned orders in a mechanical manner without due application of judicial mind. With these broad submissions, it is urged that the petition deserves to be allowed the impugned orders are liable to be set aside.

7. This Court has heard the submissions made by learned counsel for the petitioner, besides going through the material placed on record.

8. The petitioner is seeking interference with two concurrent orders whereby the complaint filed by him was dismissed at the preliminary stage on the ground that no prima facie material sufficient to summon the accused persons was available on record. The learned trial Court as well as learned revisional Court has examined the preliminary evidence in detail and have returned consistent findings that the allegations levelled by the petitioner remained unsupported by cogent documentary material. The entire case of the petitioner revolves around allegations of cheating, misuse of blank signed cheques and preparation of forged documents. However, significantly, neither the alleged forged documents nor the original loan record was produced before the Court. The petitioner himself admitted that a loan amount of Rs.2,50,000/- had been transferred into his account pursuant to the loan sanctioned through accused No.2, yet no material was placed on record to show the exact nature

of the transaction, the terms of the loan, or the alleged misuse thereof. Mere allegations of forgery, without production of the documents alleged to be forged, could not have formed the basis for summoning the accused persons in a criminal trial.

9. This Court also cannot lose sight of the fact that the petitioner alleged that blank cheques and blank signed papers were obtained from him, but there is no plausible explanation forthcoming as to under what circumstances such documents were voluntarily handed over. Even otherwise, no expert opinion, bank record, handwriting material or any independent corroborative evidence was produced to substantiate the allegations of fabrication or forgery. The Courts concerned, therefore, had rightly observed that the complaint was founded more on suspicion and assertions than on legally admissible prima facie evidence. Another important aspect which emerges from the record is that civil litigation regarding ownership and transactions pertaining to the vehicle in question was already pending before competent Civil Courts in Gujarat as well as Bhiwani. The petitioner admittedly did not disclose these proceedings in the complaint. The dispute, thus, appears to have substantial civil nature arising out of a financial and vehicle transaction between the parties. Criminal proceedings cannot be permitted to be used as a pressure tactic in matters which are predominantly civil in nature, particularly when the foundational allegations remain unsupported by credible material.

10. So far as the allegations regarding collusion of police officials with the accused persons are concerned, the same are wholly bald and unsupported by any material whatsoever. Except making sweeping allegations,

the petitioner has failed to produce any evidence indicating connivance or mala fide conduct on the part of any police official. The Courts concerned were, therefore, justified in refusing to proceed merely on conjectures and presumptions. The learned revisional Court has also rightly observed that summoning an accused in a criminal case is a serious matter affecting the liberty and reputation of a person and such power cannot be exercised mechanically. A Magistrate is certainly required to see whether a prima facie case exists, but at the same time, the Court must be satisfied that there is some substantive material on record connecting the proposed accused with the commission of the alleged offences. In the present case, both the Courts concerned found such material lacking and this Court finds no perversity or patent illegality in the said conclusion warranting interference in exercise of jurisdiction under Section 528 BNSS. Accordingly, this Court is of the considered opinion that the impugned orders do not suffer from any infirmity, illegality or jurisdictional error. The present petition, being devoid of merit, is accordingly dismissed.

(MANISHA BATRA)
JUDGE

19.05.2026
Waseem Ansari

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