



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

**CRM-M No.49999 of 2021
Reserved on: 09.04.2026
Pronounced on: 16.04.2026
Uploaded on: 17.04.2026**

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment*

M/s Om Sai Foods and another

...Petitioners

Versus

M/s Primo Foods (P) Pvt. Ltd.

...Respondent

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Argued by:- Mr. Dinesh K. Dakoria, Advocate
(appeared through video conferencing)
for the petitioners.

Mr. Gaurav Gupta, Advocate
for the respondent.

MANDEEP PANNU, J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of the summoning order dated 22.07.2019 (Annexure P-1) passed by learned Judicial Magistrate First Class, Gurugram in Criminal Complaint No. NACT/17101 of 2019 titled "*M/s Primo Foods (P) Pvt. Ltd. versus M/s Om Sai Foods and another*" instituted under Section 138 read with Sections 141 and 142 of the Negotiable Instruments Act, 1881 (for short 'the Act').
2. Learned counsel for the petitioners contends that the impugned summoning order has been passed in a mechanical manner without proper



application of mind. It is argued that the cheque in question bearing No.019467 dated 30.01.2019 for an amount of ₹15,00,000/- was issued merely as a security cheque and not in discharge of any legally enforceable debt or liability. It is further submitted that as per the own case of the complainant, the actual outstanding liability was only ₹6,90,951/- and therefore, the cheque amount being much higher than the alleged liability, no offence under Section 138 of the Act is made out. Learned counsel further submits that the cheque has been misused by the complainant after expiry of the distributorship agreement and the essential ingredients of Section 138 of the Act are not fulfilled. On these grounds, it is prayed that the summoning order as well as the complaint be quashed.

3. Per contra, learned counsel for the respondent-complainant opposes the petition and submits that at the stage of summoning, the Court is only required to see whether a *prima-facie* case is made out on the basis of the complaint, affidavit and documents placed on record. It is contended that detailed appreciation of evidence or adjudication of disputed questions of fact is not permissible in proceedings under Section 482 Cr.P.C. It is further submitted that the issuance of cheque, its dishonour and the statutory notice are not in dispute and therefore, the ingredients of Section 138 of the Act stand satisfied. The plea that the cheque was issued as a security or that the liability was lesser in amount are matters of defence which can be examined only during trial. It is, thus, prayed that the present petition deserves to be dismissed.

4. I have heard learned counsel for the parties and have gone through the record with their assistance.



5. The scope of interference under Section 482 Cr.P.C., at the stage of summoning, is limited. The Court is only required to ascertain whether the allegations made in the complaint, along-with the supporting material, disclose the commission of an offence. It is not permissible to conduct a meticulous appreciation of evidence or to adjudicate upon the defence taken by the accused.

6. In the present case, the complainant specifically alleges that the cheque in question was issued by the petitioners towards discharge of liability, which on presentation was dishonoured and despite service of statutory notice, the amount remained unpaid. These averments *prima-facie* satisfy the ingredients of Section 138 of the Act. The contention raised by the petitioners that the cheque was issued as a security cheque and that the actual liability was lesser than the cheque amount, are essentially disputed questions of fact. Whether the cheque was issued in discharge of a legally enforceable debt or merely as a security, and whether the amount claimed exceeds the actual liability, are matters which require evidence and cannot be adjudicated at this stage in proceedings under Section 482 Cr.P.C. The presumption under Section 139 of the Act operates in favour of the complainant and the same is rebuttable only during trial.

7. In view of the above, this Court is of the considered opinion that no ground is made out for quashing of the summoning order. The petitioners are at liberty to raise all the pleas as have been taken in the present petition before learned trial Court at the appropriate stage, in accordance with law.

8. Accordingly, the present petition is dismissed.



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

16.04.2026
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(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No