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

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CRM-M-61894-2023 (O&M)
Date of decision : 09.04.2026

Anil Kumar

...Petitioner

Versus

Hardeep Singh

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Shreenath A. Khemka, Advocate
for the petitioner.

Mr. Vijay Lath, Advocate
for the respondent.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 482 of Cr.P.C. (*which is pari materia with Section 528 of BNSS, 2023*) seeking quashing of order dated 09.05.2011, passed by the Court of learned Judicial Magistrate First Class, SAS Nagar in complaint bearing NACT No. 638 of 2023, titled as ***Hardeep Singh vs. Anil Kumar***, filed under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*), whereby notice of accusation was served upon the petitioner for commission of aforementioned offence, as well as for quashing of order dated 25.09.2023, passed in the same complaint, whereby bailable warrants had been ordered to be issued against the petitioner.

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2. It is argued by learned counsel for the petitioner that the respondent/complainant had filed a civil suit in the year 2010 and willfully abandoned filing of a complaint under Section 138 of the N. I. Act. The said suit has been disposed of and a Regular Second Appeal bearing No. ***RSA-5329-2015*** is currently pending before this Court. Though, the respondent/complainant had filed the aforementioned complaint on 12.09.2007, however, he did not pursue the same diligently and the same was dismissed due to non-prosecution, vide order dated 21.12.2012. Subsequently, he filed an application bearing ***CRM-A-6-MA-2014*** before this Court for restoration of the complaint while concealing the factum of civil proceedings. The said application filed by him had been allowed by this Court, vide order dated 18.01.2023. It is further submitted that now he has come to know through his counsel that bailable warrants have been issued against him, vide order dated 25.09.2023. It is submitted by learned counsel for the petitioner that once civil remedy had been pursued by the respondent/complainant, then he could not pursue the complaint filed under Section 138 of N. I. Act. The issues as taken in the civil proceedings are identical to that of the complaint. There is nothing to show that the cheque in question was issued to discharge his legally enforceable liability. It is, therefore, argued that the impugned orders are liable to be set aside.

3. Learned counsel for the respondent/complainant, on the other hand, has vehemently argued that the petition is not maintainable and has been filed only with a view to abuse the process of law. The summoning order in the complaint under Section 138 of the N. I. Act had been passed much before the date of passing of impugned order dated 09.05.2011, when notice

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of accusation was served upon the petitioner. The petitioner had pleaded not guilty and had claimed trial. He has challenged this order by filing the present petition after a gap of more than 12 years. So far as the order dated 25.09.2023 is concerned, the same has been passed after restoration of the complaint as per the orders of this Court. To secure the presence of the petitioner, bailable warrants have been issued against him by the learned trial Court and there is not infirmity or illegality in the same. It is, thus, urged that the petition, being devoid of any merit, is liable to be dismissed.

4. This Court has heard the rival submissions.

5. The petitioner was admittedly summoned as an accused to face trial for commission of offence punishable under Section 138 of the N. I. Act by the learned trial Court in the complaint in question. On a perusal of the record, it is revealed that after serving of notice of accusation upon the petitioner and at the stage of when the complaint was pending for producing evidence by the complainant, the complainant failed to appear before the Court concerned, due to which, his complaint was dismissed for non-prosecution on 21.12.2012. However, subsequently, he filed an application before this Court seeking recall of that order, which was allowed on 18.01.2023 and the complaint in question was ordered to be restored to its original number. Thereafter, bailable warrants have been issued to the petitioner to secure his presence. Since at no point of time, the petitioner challenged the summoning order and even while challenging the order dated 09.05.2011, his counsel has not raised any question as to the legality of this order, this Court finds no reason as to why the prayer made by the petitioner to that extent should be allowed. Similar is the position with regard to order

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dated 25.09.2023, whereby simple presence of the petitioner has been ordered to be secured by the learned trial Court by issuance ofailable warrants against him. The instant petition has been filed on totally frivolous and vague grounds. The impugned orders, passed by the learned trial Court, do not warrant any interference by this Court. As such, finding no reason to allow the petition, the same is dismissed.

09.04.2026
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>