



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.58211 of 2025 (O&M)

Reserved on: 13.01.2026

Pronounced on :30.01.2026

IIFL Home Finance Limited

.....Petitioner

Versus

Mahesh Tekchand Bopche

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present : Mr. Vineet Sehgal, Advocate for the petitioner.

SURYA PARTAP SINGH, J. (Oral):

This petition has been filed for direction to the learned Judicial Magistrate Ist Calsss, Gurugram, hereinafter being referred as 'trial Court' to the effect that the preliminary evidence in the compliant filed by the petitioner be recorded by preponing the case wherein for recording of preliminary evidence a long date of nearly 16 months has been fixed.

2. In nutshell the facts emerging from record are that the petitioner has filed a complaint for the commission of offence under Sections 25 & 27 of the Payment and Settlement Systems Act 2007 read with Section 357 of the Code of Criminal Procedure, the complaint was taken up by the learned trial Court on 29.05.2025 and the following order was passed:-

“As per tracking report, notice sent to the respondent through post was delivered successfully. None has appeared on his behalf. Respondent did not avail the opportunity granted to him. Same stands waived.



Upon asking, the AR of complainant company alongwith counsel humbly prayed for an adjournment on the ground that they have not received original documents from the complainant.

Heard. It seems the AR and the counsel for complainant have a very limited role today as they cannot assist the court in absence of the documents which were not provided by the complainant. Due to this reason, this court could not record preliminary evidence. The authority concerned having the possession of the original documents, i.e. loan agreement, ECS Mandate, through the counsel, is directed to provide the original documents on or before 28.09.2026 so that preliminary evidence could be taken, failing which this court would not provide further adjournment for preliminary evidence”.

3. The petitioner is aggrieved of the above mentioned order *firstly*, because instead of recording the preliminary evidence the case has been adjourned and *secondly*, because a long date has been fixed, i.e. of approximately 16 months.

4. Heard.

5. It has been contended by learned counsel for the petitioner that the learned trial Court has adopted a very strange working style when despite the presence of counsel for the petitioner, as well as Authorized Representatives, who was ready to lead preliminary evidence, the learned trial Court on flimsy ground adjourned the case by saying that the original record was not available.



According to learned counsel for the petitioner instead of recording the evidence the learned trial Court insisted for production of original documents. In this regard it has been contended by learned counsel for the petitioner that as per laid down law, and widely followed procedure, the duty cast upon the learned trial Court was to record the preliminary evidence, whatsoever, was being produced by the complainant and then take a decision, by appreciating the same, on the issue as to whether on the basis of above mentioned preliminary evidence any summoning order should be passed or not. While contended that a totally wrong procedure has been adopted by the learned trial Court, the learned counsel for the petitioner has sought the above mentioned direction.

6. With regard to above mentioned petition it is relevant to mention here that a report from the District and Sessions Judge, Gurugram was called with regard to the manner in which the trials were being conducted in the Court concerned. A detailed report has been submitted by the learned District and Sessions Judge Gurugram, wherein it has been reported that on 22.07.2025 the Hon'ble Supreme Court of India in a case issued a direction to the learned the District and Sessions Judge Gurugram to conduct a fact finding inquiry, as to whether coercive action has been taken against home buyers despite interim order passed by the Hon'ble Supreme Court. As per report of learned District and Sessions Judge, Gurugram in view of above mentioned directions, to prevent re-occurrence of any such event steps were taken and check list was prepared so as it can be determined that all the requisite documents have been filed along with complaint. As reported by the learned District & Sessions Judge, Gurugram, the above mentioned check list was prepared for the Court



staff and that the above mentioned check list has been erroneously captioned as 'order'.

7. In the backdrop of above mentioned report, if the factual matrix of the case and the order dated 29.05.2025 are analysed in consonance with each other it transpires that by virtue of order dated 29.05.2025 the learned trial Court instead of recording the preliminary evidence insisted the learned counsel for the complainant and its authorized representative to produce original documents on record.

8. In my opinion, the above mentioned procedure adopted by the learned trial Court is contrary to the settled principles of law. As per prescribed procedure once a complaint is filed and the complainant is ready to lead preliminary evidence, the duty cast upon the learned trial Court is to record the preliminary evidence and thereafter on appreciation of preliminary evidence, if the learned trial Court finds that the above mentioned preliminary evidence is not good enough to pass a summoning order, pass a judicial order regarding dismissal of the complaint. But prior to that simply insisting the complainant party to produce original document is not the procedure in conformity with the laid down law.

9. Hence, while deprecating the practice adopted by the learned trial Court for adopting a wrong procedure it is hereby ordered that in the instant case when the complainant is ready to adduce preliminary evidence firstly the preliminary evidence in whatever form it is available, should be recorded, and thereafter, a judicial order must be passed.

10 In the present case, another relevant aspect to be taken into consideration is that the learned trial Court for recording of preliminary



evidence adjourned the case for a period of almost 16 months. This is again very unusual and impractical, and contrary to the mandate of Negotiable Instruments Act 1881. Rather, it amounts to injustice with the complainant. Hence, in view of above discussed facts & circumstances, learned trial Court is hereby directed to prepone the case and fixed any date in the month of February for recording the preliminary evidence, and thereafter, would pass the appropriate order. A copy of this order be forwarded to the Hon’ble Administrate Judge, Gurugram for his kind notice.

(SURYA PARTAP SINGH)
JUDGE

30.01.2026
Manoj Bhutani

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