



128

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

CRM-M-19854-2025

Date of decision: 27.05.2025

Chander Shekhar Jain

....Petitioner

Versus

Harbans Lal

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Shehbaz Thind, Advocate  
for the petitioner.**HARPREET SINGH BRAR, J. (ORAL)**

The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of complaint bearing No.29453-2019 dated 02.11.2019 (Annexure P-1) titled as 'Harbans Lal Vs. Chander Shekhar Jain' and quashing of summoning order dated 27.11.2019 (Annexure P-2) passed by the learned trial Court.

Learned counsel for the petitioner *inter alia* contends that the petitioner was tenant of the respondent since 2012 and dispute arose between them with regard to enhancement of rent. The arbitrary demand of the respondent was declined by the petitioner. Thereafter, the respondent attempted to forcibly dispossessed the petitioner and allegedly took possession of the said premises and also committed theft of valuable articles and blank cheques by unlawful means. Thereafter, the respondent has misused one of the said cheques to file a false complaint under Section 138 of the Negotiable Instruments Act. Further, the Rent Petition No. RP/14/2020 with regard to the same dispute and arrears of rent, has been dismissed by the learned Rent Controller, as such, continuation of the proceedings under the complaint (*supra*) are abuse of the process of law and the averments in the complaint are



CRM-M-19854-2025

-2-

contrary to the averments made in the rent petition. Further, at the time of filing of the complaint (*supra*), there was no liability towards the legally enforceable debt towards the petitioner and summoning order is passed in a mechanical manner.

Having heard learned counsel for the petitioner, this Court finds no force in the arguments advanced by him. All the arguments raised by the petitioner are the matter of trial. The probable defence, however, convincing it may seem, can only be appreciated by the learned trial Court on the basis of the evidence led by the parties at this stage.

As such, the matter requires to be adjudicated by the learned trial Court on the basis of the evidence adduced by the parties and the probable defence as set up by the petitioner cannot be gone into at this stage. A two Judge bench of the Hon'ble Supreme Court in ***HMT Watches Limited vs. M.A. Abida (2015) 11 SCC 776*** has held that inherent powers under Section 482 of the Cr.P.C. cannot be extended to determining question of facts. It is only for the trial Court to determine the disputed questions of fact after examining the evidence on record and interference by this Court with regards to factual questions is impermissible in law.

A two Judge bench of the Hon'ble Supreme Court in the ***Rathish Babu Unnikrishnan Vs. State (Govt. of NCT) 2022 SCC Online SC 513***, speaking through Justice Hrishikesh Roy, observed as under:

*“17. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Also because of the legal*



CRM-M-19854-2025

-3-

*presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption.”*

Reliance in this regard can also be placed on the judgement rendered by the Hon'ble Supreme Court in ***Sampelly Satyanarayana Rao vs. Indian Renewable Energy Development Agency Limited (2016) 10 SCC 458.***

Accordingly, the present petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

However, nothing observed herein shall be construed as expression of an opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

**(HARPREET SINGH BRAR)**  
**JUDGE**

27.05.2025

Neha

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