

In the Court of Addl. Chief Judicial Magistrate-I, Mohania (Kaimur)

Complaint Case No. – 24 / 2026

(Khakshar Ahmed Khan Vs. Manish Kumar Singh)

ORDER

01.06.2026

1. The matter is called out for hearing on the point of admission. The Complainant, Khaksar Ahmed Khan, is present in person along with his Learned Counsel. The Complainant has preferred the instant complaint against the proposed accused, Manish Kumar Singh, for the alleged commission of an offence punishable under Section 138 of the Negotiable Instruments (N.I.) Act, 1881.

2. The case of the Complainant is that, owing to prior friendly relations, he advanced financial assistance to the tune of Rupees 23,00,000/- (Rupees Twenty-Three Lakhs only) via bank transfer to the Accused on 08.11.2020 to help revive the Accused's closed stone crusher plant in Rewa, Madhya Pradesh. To discharge this liability, the Accused issued five separate HDFC Bank cheques in his individual capacity. Out of these, the Complainant presented Cheque No. 000020 (amounting to Rupees 5,00,000/-) for encashment at Punjab National Bank, Kabilaspur Branch, Durgawati. The said cheque was returned dishonoured on 15.11.2025 with the bank remarks citing "Insufficiency of Funds".

3. The Complainant asserts that after an informal notice yielded no results, a formal legal demand notice was dispatched through Counsel on 10.12.2025. Upon the Accused's refusal to accept delivery, the notice

was returned unserved. The Complainant then dispatched a subsequent notice on 22.12.2025 and additionally served the legal notice digitally via WhatsApp on 17.01.2026. Despite these modes of service, the Accused neither paid the amount nor replied to the notice.

4. Heard the Learned Counsel for the Complainant at length on the point of admission and carefully perused the materials available on record. Before a Magistrate can take cognizance of an offence under Section 138 of the N.I. Act, the complaint must strictly adhere to the statutory timelines explicitly prescribed under Section 138(b) and Section 142(1)(b) of the Act. These limitations are mandatory and structural.

According to the Complainant's own timeline:

- **Receipt of WhatsApp Notice by Accused:** 17.01.2026
- **15-Day Cure Period (Section 138(c)):** Expired on 01.02.2026
- **Accrual of Cause of Action:** 02.02.2026
- **Statutory 1-Month Filing Window:** 02.02.2026 to 02.03.2026

Perusal of the record reveals a fatal procedural defect. The present complaint was presented before this Court on 19.01.2026. On the date of filing, the statutory 15-day cure period granted to the Accused to make payment had not even expired. Consequently, no cause of action had accrued in favour of the Complainant on the date the complaint was instituted.

5. A prosecution under the N.I. Act is a highly technical legal remedy. A complaint filed prior to the accrual of the cause of action is

premature and cannot be entertained in this manner. While the law permits the institution of a premature complaint under exceptional circumstances (subject to re-presentation or post-facto regularization after the cause of action arises), the Complainant here did not seek any such leave, nor did they file a fresh complaint within the valid statutory window ending 02.03.2026.

Furthermore, the complaint suffers from another fundamental defect regarding the impermissible joinder of causes of action. The record indicates that while five separate cheques were issued to discharge the alleged liability, the present complaint aggregates distinct, individual instruments without establishing a singular, continuous transaction that satisfies the strict joint-trial parameters under the Code of Criminal Procedure. A standard omnibus complaint cannot casually merge separate causes of action arising from distinct instruments unless they strictly fall within the statutory exceptions of a single transaction.

The Learned Counsel for the Complainant has heavily relied on the ratio of *Sumit Bansal vs. M/S MGI Developers and Promoters and Another*, averring that a joinder of causes of action is permitted. This Court is of the view that this precedent does not rescue the Complainant's case. A legal precedent concerning the technicalities of "joinder of cause of action" cannot bypass, cure, or override a fundamental statutory defect where the court is asked to take cognizance on a date when no offense had legally materialized.

Furthermore, the issuance of successive demand notices to

artificially alter the limitation period is legally impermissible. The legal prerequisites to maintain a prosecution under Section 138 of the N.I. Act stand completely unfulfilled. Missing or jumping the strict statutory windows set by the legislature strips the complaint of its legal validity at the very threshold.

Operating Order:

6. In view of the aforesaid discussions, this Court finds the instant complaint to be premature, procedurally defective on account of misjoinder of causes of action, and entirely non-maintainable. Accordingly, this complaint stands **dismissed** at the stage of admission.

The Office Clerk is directed to complete all procedural formalities and consign the record to the Record Room.

(Dictated)

Sd/-

(Dr. Alok Ranjan)

ACJM-I

Mohania (Kaimur)