

Present: Sh. Tijender Pal Singh, Advocate for complainant.

ORDER

Today, the matter is fixed for consideration.

Perusal of file shows that the present complaint was filed in the year 2024, and despite the lapse of more than two years, the complainant has failed to get his preliminary evidence recorded. The case file reveals that the complainant was afforded more than 05 effective opportunities to lead preliminary evidence. However, she did not avail the same and failed to conclude his evidence. Consequently, the preliminary evidence was closed by a reasoned order dated 15.04.2026.

It is a settled proposition of law that the burden lies upon the complainant to establish the guilt of the accused under Section 138 of the Negotiable Instruments Act, 1881, which mandates that the dishonour of a cheque, if not rebutted, may attract penal consequences. However, in the present case, the complainant has not stepped into the witness box nor produced any material evidence to substantiate the allegations leveled in the complaint.

The **Hon'ble Punjab and Haryana High Court in "M/s. Prem Chand Vijay Kumar v. Yashpal Singh and Anr." [2005 (1) RCR (Criminal) 696]** held that: "*When the complainant does not appear despite repeated opportunities and does not lead evidence in support of the complaint, it can be presumed that he has lost interest in pursuing the matter and the complaint is liable to be dismissed for non-prosecution.*"

In the present matter, not only has the complainant remained absent today without any justifiable reason, but she also failed to lead any evidence in support of the complaint despite multiple opportunities. The allegations, therefore, remain unsubstantiated on record.

In view of the above discussion, and in the absence of any evidence to prove the ingredients of Section 138 of the NI Act, the present complaint is dismissed for lack of evidence against the accused. File be consigned to the record room after due compliance.

Date of Order :27.07.2026

Danny

(Sandeep Kaur)

Judicial Magistrate First Class, Kaithal

U.I.D.No:HR-0508