

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

CRM(M) No. 529/2024

Mohammad Maqbool Kondoo

...Petitioner(s)

Through: None

Vs.

Peerzada Waseem Hussain

...Respondent(s)

Through: Mr. Umar Rashid Wani, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
10.04.2026

There is no representation on behalf of the petitioner.

Counsel for the respondent present.

In this case the proceedings in the complaint have been stayed vide order dated 31.08.2024, whereas, the petitioner after obtaining the order was found absent on 04.11.2024, again on 17.10.2025 and today also there is no representation on his behalf.

It is submitted by the counsel for the respondent that the cognizance in this case under Section 138 of the Negotiable Instrument Act (N.I. Act) was taken by the Trial court in pursuance to order dated 25.04.2023 and thereafter the petitioner participated in the proceedings and it is only after the Trial court proceeded to award interim compensation under Section 143-A N.I. Act, that the petitioner has without availing the remedy of revision before the Session court, approached this Court to challenge the order of cognizance as well as the order of interim compensation.

Record of the Trial court has already been received, which on perusal would show that the petitioner appeared in pursuance to the order of cognizance.

The primary ground on which the order of cognizance and award of interim compensation have been questioned is that out of four cheques only two cheques were drawn in the name of the respondent while the other two cheques were merely bearer cheques. Thus there is no onus or liability on the petitioner warranting taking of cognizance under Section 138-A NI Act. Further, the Trial court has acted in haste in ordering interim compensation as there was no prima facie material suggesting that the petitioner was protracting the proceedings.

Perusal of the Trial court record would show that the petitioner on being put with the accusation in terms of Section 251 of Cr.P.C. has not made even a whisper about two bearer cheques being not issued by him. In fact the statement given by him under Section 251 Cr.P.C on 26.08.2023 is a simple case of denial without substantiating as to how come the offence is not made out against the petitioner. So much so, even the complainant has examined one of the witnesses CW- Ghulam Hassan Shah. It thus appears that after the cognizance was taken, the Trial court has proceeded with the trial and the fact that order of cognizance has been questioned only after the interim compensation awarded goes on to show that the petitioner has no case to contest the order of the taking cognizance.

In so far as, the order relating to interim compensation in terms of Section 143-A is concerned, the same appears to have been drawn in accordance with law. The said order was drawn only during the course of the trial and after providing reasonable opportunity of being heard to the petitioner. The plea that the order is drawn mechanically, however, there is not even a whisper in the petition as to on what basis the petitioner assumes that the order has been drawn mechanically.

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In fact, that the petitioner is avoiding to contest the matter on merits and has been enjoying the interim directions to the detriment of the respondent.

For the aforesaid reasons this petition is held meritless and is thus **dismissed**.

Interim direction, if any, shall stand vacated.

(SANJAY PARIHAR)
JUDGE

SRINAGAR:
10.04.2026
Imtiyaz