2026:PHHC:060477

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

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CRM-M-65305-2025
Date of decision: 21.04.2026

BANSAL CREATION AND ANOTHER ......Petitioners

VERSUS

STATE OF PUNJAB AND ANOTHER ....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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Present: - None for the petitioners.

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VINOD S. BHARDWAJ, J. (Oral)

This is the fourth time when the matter has been listed for hearing before this Court. On two occasions, Counsel for the petitioner chose not to appear while on the third date of hearing i.e. 13.02.2026, a request had been made for a short adjournment. The matter was adjourned for today. Today also, the case has been called twice, however, there is no representation on behalf of the petitioner(s). It thus seems that Counsel for the petitioner is not interested in pursuing the present petition.

2. Nonetheless, the matter is being examined on merits.

3. The present petition has been filed under Section 528 of BNSS for seeking quashing of the complaint dated 10.03.2022 titled *"Kushal*

Goyal versus Bansal Creation & others" registered vide "NACT No. 1532/2023" pending before the Judicial Magistrate, 1st Class, Bathinda alongwith summoning order dated 02.07.2022 and all subsequent proceedings arising therefrom.

4. It has been averred in the petition that the complainant-Kushal Goyal (Respondent No.2 herein), filed the aforesaid complaint under Section 138 of the Negotiable Instruments Act, 1881, alleging that the petitioner and his co-accused Sameer Bansal owed a liability arising from a friendly loan for a sum of Rs. 5,00,000/- advanced on 08.11.2016. It is averred that the respondent-complainant has admitted in his own complaint that he had received part payments of Principal amount of Rs. 4,00,000/- (Rs. 3,00,000/- on 06.11.2019 and Rs. 1,00,000/- on 10.02.2020) thereby reducing the outstanding principal debt to only Rs. 1,00,000/-. The cheque No. 075534 dated 20.01.2022 was eventually issued for a sum of Rs. 3,73,811/- from the account of Petitioner No.-1-Bansal Creation through its sole proprietor Sumitra Bansal who is petitioner No.2 herein. On its presentation, the said cheque was dishonoured with a specific remark "Cheque Unusable". It is submitted that notwithstanding the same, the order of summoning has been issued on the said ground. It is further averred that the cheque was not issued against any discharge of a legally enforceable debt. An argument has also been raised in the petition that the cheque was grossly disproportionate to the outstanding principal amount and that the primary documents pertaining to loan agreement, promissory note, or other written contract have not been produced, hence, there would be no basis for establishing the case of the liability being owed.

5. It, however, transpired from perusal of the documents appended

along with the present petition that the amount in question is stated to have been handed over in the year 2016 and that the partial payment is stated to have been made in November, 2019 and February, 2020 i.e. after period of nearly four years. Further, it was also mentioned in Para No.2 of the complaint that the aforesaid amount had been taken on record in November, 2016 for the business purposes by fixing the rate of interest @ 15% per annum. Thus, as to whether the amount for which the cheque was payable or not is question of fact which would be duly established during the course of trial and is not required to be gone into at this stage.

6. Further, it is not disputed in the present case that the cheque was signed by petitioner No.2 for and on behalf of petitioner No.1 which is the sole proprietorship of petitioner No.2. Thus being a signatory, the burden lies upon the petitioner to explain as to how and under what circumstances, the cheque in question was issued. There is a statutory presumption in favour of the complainant that he is a holder of the cheque against a legally enforceable debt. As the submissions averred in the present petition are only probabilities being sought to be emphasized, the said aspect cannot be taken as gospel truth for examining the present complainant. Further, there has been no averment as to under which circumstances the cheque became unusable. It seems that the petitioner is avoiding answering the queries. The present case is accordingly dismissed for non-prosecution.

(VINOD S. BHARDWAJ)
JUDGE

APRIL 21, 2026
Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No