



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Criminal Miscellaneous (Petition) No. 3510/2026

CNR: RJHC010427932026

URN: CRLMP / 6291U / 2026

Sohan Lal S/o Govind Ram, Aged About 37 Years, Resident Of
Chak 11 Sjm Post Office Kamerania Tehsil Anupgarh District
Sriganganagar Rajasthan

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Gajanand Soni S/o Shri Ramkaran Soni, Aged About 52
Years, Resident Of Ward No 12 Anupgarh He Is The
Proprieter Firm Haryana Jewellers Located At Main Bazar
Anupgarh Tehsil Anupgarh District Sriganganagar
Rajasthan

-----Respondents

For Petitioner(s)	:	Mr. Arshdeep Jattana for Mr. Pankaj Gupta
For Respondent(s)	:	Mr. Hanuman Prajapati, PP

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

13/07/2026

The present criminal miscellaneous petition has been filed by the petitioner under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, assailing the orders dated 09.05.2025 and 09.04.2026 passed by the learned Additional Chief Judicial Magistrate, whereby the applications preferred by the petitioner under Section 91 of the Code of Criminal Procedure seeking production of certain documents came to be rejected.

Learned counsel for the petitioner submits that the complaint under Section 138 of the Negotiable Instruments Act has been instituted on the allegation that the cheque in question was issued towards discharge of a legally enforceable liability arising out of the purchase of jewellery by the petitioner from the complainant.

It is submitted that the petitioner has consistently disputed the very existence of the alleged transaction and has taken a specific defence that no jewellery was ever purchased by him from the complainant. According to the petitioner, the cheque in question had merely been handed over as a security for the agricultural land which was taken on contract for cultivation and the same has subsequently been misused by the complainant. It is further submitted that the jewellery bill relied upon by the complainant does not bear the signature or acknowledgment of the petitioner.

Learned counsel further submits that during the cross-examination of the complainant, it has come on record that the complainant is a regular income tax assessee and that the jewellery bill relied upon by him bears a GST number. It is further submitted that the complainant stated that the relevant books of account and statutory records are maintained through his Chartered Accountant.

It is also submitted that, as borne out from the cross-examination, out of the entire bill book produced by the complainant, the disputed bill is the only bill wherein the name and address of the purchaser has been mentioned, whereas no purchaser's name appears in the remaining bills and the columns

are blank. It is further submitted that no other transaction reflected in the said bill book was effected through cheque apart from the petitioners'. According to the petitioner, these circumstances distinguish the disputed transaction from the remaining transactions reflected in the bill book and render the corresponding books of accounts and tax returns relevant for examining the genuineness of the transaction pleaded by the complainant .

The petitioner has taken a specific plea that no such transaction occurred and hence the absence of this entry in the complainant's official records would strike at the root of the legally enforceable debt and the documents are essential to rebut the statutory presumption under Section 139 of the NI Act.

It is submitted that, in the aforesaid background, the petitioner preferred applications under Section 91 Cr.P.C. seeking production of the complainant's income tax returns. The said applications were contested and ultimately came to be rejected by the learned Trial Court vide order dated 09.05.2025. Thereafter the petitioner filed another application to summon the relevant books of accounts and returns from CA of the complainant Shri Mohit bajaj since it was stated that the entire record was with him however this application filed under Section 254 Cr.P.C was also rejected vide order dated 09.04.2026 holding that the CA of the complainant cannot be compelled to produce the documents which belong to the complainant.

This Court has considered the submissions advanced by learned counsel for the petitioner and has perused the material available on record.

The complainant seeks to establish the existence of a legally enforceable liability primarily on the basis of the jewellery bill allegedly issued in favour of the petitioner. The petitioner, on the other hand, disputes the very genesis of the transaction and has consistently maintained that no jewellery was ever purchased by him and that the cheque in question had merely been issued as a security.

From the material placed before this Court, it appears that during the cross-examination of the complainant, certain facts have been elicited with regard to the complainant being an income tax assessee and the maintenance of books of account. The petitioner has also relied upon the circumstance that the disputed bill is stated to be the only bill in the bill book wherein the name of the purchaser has been mentioned and that no other transaction reflected therein appears to have been effected through cheque. These circumstances constitute the basis of the petitioner's defence and his request for production of the statutory business records.

In the facts and circumstances of the present case, the books of account and income tax returns sought by the petitioner cannot be said to be wholly irrelevant or unconnected with the controversy involved. At the same time, the question whether such documents were required to be summoned under Section 91

Cr.P.C. (Section 94 BNSS) and Section 254 BNSS and the evidentiary consequence, if any, arising from their non-production are distinct issues.

It is noticed from the record that the petitioner sought production of the aforesaid statutory records by filing applications under Section 91 and 254 Cr.P.C. The said applications were contested by the respondent-complainant and ultimately rejected by the learned Trial Court. Consequently, the aforesaid documents do not form part of the evidence presently available before the learned Trial Court.

In the peculiar facts of the present case, this Court does not consider it necessary to examine the legality of the impugned orders inasmuch as the controversy raised in the present petition can be appropriately resolved by preserving the petitioner's right to raise all legally permissible submissions regarding the evidentiary effect of the absence of the aforesaid documents from the record.

It is well settled that the appreciation of evidence and the evidentiary consequences flowing from the material placed, or not placed, on record fall within the exclusive domain of the learned Trial Court. If any contention is raised by either party regarding the effect of non-production of any document having a bearing on the controversy, the same is required to be considered by the learned Trial Court while appreciating the evidence as a whole and in accordance with law.

Accordingly, it is clarified that the rejection of the petitioner's applications under Section 91 Cr.P.C. and Section 254 Cr.P.C shall not, by itself, operate as a bar to the petitioner raising all legally permissible submissions regarding the evidentiary effect of the absence of the aforesaid statutory records from the record. If the petitioner contends before the learned Trial Court that the non-production of the books of account or income tax returns relating to the transaction relied upon by the complainant has a bearing on the appreciation of evidence, the learned Trial Court shall consider such submission independently, uninfluenced by the rejection of the applications and in accordance with law, including the question whether any inference under Section 114 Illustration (g) of the Indian Evidence Act, 1872, or corresponding new Section 119 of the Bharatiya Sakshya Adhiniyam, 2023, as applicable, is warranted in the facts and circumstances of the case.

Needless to observe, this Court has not expressed any opinion on the genuineness of the jewellery bill, the existence or otherwise of the underlying transaction, or the merits of the rival contentions of the parties. All such issues shall be decided by the learned Trial Court solely on the basis of the evidence adduced before it and in accordance with law.

With the aforesaid observations and clarification, the present criminal miscellaneous petition stands disposed of.

(BALJINDER SINGH SANDHU),J