

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

S.B. Criminal Miscellaneous (Petition) No. 4180/2026

1. Municipal Board, Hamirgarh Tehsil Hamirgarh district
Bhilwara Through Executive Officer.
2. Rekha Parihar, Ex-Chairman, Municipal Board, Hamirgarh
Tehsil Hamirgarh District Bhilwara.
3. Bhanu Pratap Singh Executive Officer, Municipal Board,
Hamirgarh Tehsil Hamirgarh District Bhilwara.

-----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Ms Ajmera Furniture, Sirki Mohalla, Mahila Ashram road,
Bhilwara Through Proprietor Manish Ajmera.

-----Respondents

For Petitioner(s)	:	Mr. Parwat Singh Rathore
For Respondent(s)	:	Mr. H.S. Jodha, PP

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

03/07/2026

The present criminal miscellaneous petition has been filed by the petitioner–Municipality Board assailing the order passed by the learned trial Court rejecting its application seeking discharge in the proceedings initiated under Section 138 of the Negotiable Instruments Act, 1881.

It is submitted that a forged cheque was allegedly issued by one of the employees of the petitioner–Municipality Board in favour of the complainant, M/s Ajmera. In respect thereof, an FIR was registered and, upon completion of investigation, a charge-

sheet was filed against the concerned employee. However, during the pendency of the criminal proceedings, the said employee expired and, consequently, the proceedings against him stood abated. It is, however, contended that the investigating agency had found the said employee to be responsible for issuance of the forged cheque.

It is further submitted that, on the basis of the very same cheque, the complainant instituted proceedings under Section 138 of the Negotiable Instruments Act, wherein cognizance has been taken by the learned trial Court. According to the petitioner, the signatures appearing on the cheque are forged and do not belong either to the Chairman or to the Executive Officer of the Municipality Board. In these circumstances, an application was preferred before the learned trial Court praying that the proceedings against the petitioner be dropped. The learned trial Court, vide order dated 19.09.2025, rejected the said application holding that the plea raised by the petitioner involves disputed questions of fact which can be adjudicated only after appreciation of evidence during trial.

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

It is not in dispute that an FIR was registered with regard to the alleged forged cheque and that, after investigation, a charge-sheet was filed against the concerned employee, who subsequently expired. It is also undisputed that proceedings under

Section 138 of the Negotiable Instruments Act have been initiated on the basis of the same cheque and cognizance has already been taken by the learned trial Court.

The principal defence raised by the petitioner is that the cheque in question bears forged signatures and, therefore, no liability can be fastened upon the Municipality Board or its officials. Such a defence, however, is essentially a matter requiring proof by leading cogent evidence. The petitioner shall be at liberty to place on record all relevant documents, including the material collected during the investigation in the FIR relating to the alleged forgery, in support of its defence before the learned trial Court. The evidentiary value and effect of such material can only be examined after the parties lead evidence during the course of trial.

At this stage, this Court finds no illegality, perversity or jurisdictional error in the order passed by the learned trial Court holding that the defence raised by the petitioner cannot be adjudicated without appreciation of evidence. The impugned order, therefore, does not warrant interference in exercise of this Court's inherent jurisdiction.

Accordingly, the present criminal miscellaneous petition is dismissed.

It is, however, clarified that in the event the petitioner places on record any material or documents substantiating its plea that the cheque in question is forged, the learned trial Court shall consider the same strictly in accordance with law at the



appropriate stage of the proceedings, uninfluenced by any observations made herein.

(BALJINDER SINGH SANDHU),J

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