

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No.1657/2017

Rajesh Kumar Meena S/o Shri Shambhu Dayal Meena R/o Nala
Mohalla, Dausa, Tehsil Dausa, Distt. Dausa Raj.

-----Petitioner

Versus

Ramesh Kumar Jain S/o Late Shri Mangal Chand Jain, R/o Jain
Mohalla, Near By Pansaret Bazar, Dausa, Tehsil And Distt. Dausa

-----Respondent

For Petitioner(s)	:	Mr. Budhi Prakash Sharma
For Respondent(s)	:	Mr. Jitendra Singh Rathore, PP with Ms. Neha Goyal

Mr. Ritesh Jain
Mr. Ramdeo Arya
Ms. Poonam Mishra

JUSTICE ANOOP KUMAR DHAND

Order

27/04/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 27.01.2026 passed by the Additional Chief Judicial Magistrate, Dausa by which cognizance has been taken against the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short "the Act of 1881").

2. Learned counsel for the petitioner submits that the cheque of the petitioner was misused by the complainant-respondent qua which a criminal case was lodged and thereafter charge sheet was submitted against him, hence, under these circumstances, no case is made out against the petitioner to proceed under Section 138 of the Act of 1881. Hence, interference of this Court is warranted.

3. *Per contra*, learned counsel appearing on behalf of the respondent submits that in a criminal case, so lodged by the petitioner against the respondent, the respondent has already been discharged by the court of Additional Chief Judicial Magistrate No.2, Dausa in Criminal Case No.1367/2020 vide order dated 12.08.2024, hence, under these circumstances, interference of this Court is not warranted and the instant petition is liable to be rejected.

4. Heard and considered the submissions made at the Bar and perused the material available on record.

5. Perusal of the record indicates that a criminal complaint under Section 138 of the Act of 1881 was submitted by the respondent against the petitioner, wherein cognizance was taken against him vide order dated 16.08.2016. The main basis for filing the instant petition, assailing the validity of the cognizance order, is that the respondent has misused the cheque and submitted instant complaint against the petitioner. This fact is not in dispute that a criminal case was lodged by the petitioner against the respondent for misusing the cheque, but the respondent has been discharged by the Court of Additional Chief Judicial Magistrate No.2, Dausa vide order dated 12.08.2024.

6. Whether the petitioner is innocent or he has committed any offence or not? It is a subject matter of trial. The meticulous examination of the evidence cannot be done at the stage of cognizance and even the defence of the accused cannot be looked at this initial stage.

7. In the considered opinion of this Court, cognizance can be taken against any accused on the basis of the *prima facie* case

and in the instant case also finding a *prima facie* case against the petitioner, cognizance has been taken against him by passing a reasoned and cogent order, which does not require any interference of this Court. Hence, the instant criminal misc. petition is liable to be and is hereby rejected.

8. Stay application as well as all pending applications, if any, stand disposed of.

(ANOOP KUMAR DHAND),J