



2026:UHC:3892

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p><u>C528/927/2026</u></p> <p><b><u>Hon'ble Alok Mahra, J.</u></b></p> <p>Mr. Mohd. Azim, learned counsel for the applicant.</p> <p>2. Mr. Akshay Latwal and Mr. Prabhat Kandpal, learned A.G.A. along with Mr. Manoj Bhatt, learned Brief Holder for the State.</p> <p>3. Present C-528 application has been filed seeking quashing of the order dated 17.04.2025 passed by the learned 3rd Additional Civil Judge (J.D.)/Judicial Magistrate, Dehradun in Complaint Case No.6474 of 2018, under Section 138 of the Negotiable Instruments Act, as well as the order dated 22.01.2026 passed by the learned 3rd Additional Sessions Judge, Dehradun in Criminal Revision No.151 of 2025; further seeking a direction to the learned trial court to afford an opportunity to the applicant to lead defence evidence in the aforesaid complaint case.</p> <p>4. Learned counsel for the applicant would submit that the respondent instituted Complaint Case No.6474 of 2018 under Section 138 of the Negotiable Instruments Act before the court of learned IV Additional Civil Judge (J.D.), Dehradun, wherein summons and thereafterailable warrants were issued against the applicant on account of his non-appearance; that, the applicant is employed on contractual basis as a driver and, owing to the nature of his duties, he frequently remains outside</p>



Dehradun, due to which he could not appear before the trial court on certain dates and consequently, non-bailable warrants came to be issued against him, which were subsequently recalled vide order dated 10.01.2024.

5. Learned counsel for the applicant would further submit that on account of unavoidable circumstances and absence of the applicant, the opportunity to adduce defence evidence was initially closed by the learned trial court vide order dated 30.01.2020; that, an application under Section 311 Cr.P.C. was preferred by the applicant seeking recall of the said order, which was allowed by the learned court concerned vide order dated 19.01.2024; that, during the cross-examination of the complainant, certain material questions relating to the alleged theft/misuse of the cheque in question could not be put to the complainant and, therefore, another application under Section 311 Cr.P.C. was moved by the applicant, which, however, came to be rejected vide order dated 12.11.2024.

6. Learned counsel for the applicant would further submit that thereafter the matter was fixed for defence evidence on 28.11.2024, on which date the applicant could not appear and the matter was adjourned to 15.12.2024; that, on 15.12.2024, both the parties moved exemption applications, which were allowed, and the adjournment sought on behalf of the applicant was granted by the learned trial court by way of last opportunity; that, on 16.12.2024, due to unavoidable circumstances, an exemption application



was again moved on behalf of the applicant, which was allowed subject to payment of costs and the matter was fixed for 25.01.2025; that, on 25.01.2025, though the applicant was present before the court, the Presiding Officer was on leave and the matter was adjourned to 19.02.2025. On 19.02.2025, exemption and adjournment applications moved on behalf of both the parties were allowed and the matter was fixed for 28.02.2025. Thereafter, the case was taken up on 12.03.2025 and was adjourned by the court for 17.04.2025.

7. Learned counsel for the applicant would further submit that on 17.04.2025, the matter was fixed for defence evidence, however, since the applicant was out of station in connection with his employment duties as a driver, he could not appear before the trial court and an exemption application was moved on his behalf; that, although the learned trial court allowed the exemption application, yet it proceeded to close the opportunity of the applicant to lead defence evidence vide impugned order dated 17.04.2025. Aggrieved thereby, the applicant preferred Criminal Revision No.151 of 2025, which too came to be dismissed by the learned revisional court vide order dated 22.01.2026. Hence, the present application.

8. Learned counsel for the applicant would further submit that both the courts below have failed to properly appreciate the facts and circumstances of the case and have rejected the claim of the applicant in a cursory and mechanical manner; that, the impugned order dated 17.04.2025 has been passed without considering that the absence of the applicant was neither deliberate nor



			<p>intentional, and that denial of opportunity to lead defence evidence has resulted in serious prejudice to the applicant, therefore, the impugned orders are liable to be quashed and the applicant deserves to be granted one opportunity to adduce defence evidence.</p> <p>9. Per contra, learned State counsel would vehemently oppose the submissions advanced on behalf of the applicant and submit that ample and sufficient opportunities had already been granted to the applicant by the learned trial court to lead defence evidence; that, despite repeated indulgence shown by the trial court, the applicant failed to avail the opportunities granted to him and continued to adopt dilatory tactics; that, learned trial court has passed a detailed and reasoned order while closing the defence evidence of the applicant and the learned revisional court has also rightly affirmed the same by a well-reasoned order, therefore, no interference is warranted by this Court in exercise of its inherent jurisdiction.</p> <p>10. Heard learned counsel for the parties and perused the material available on record.</p> <p>11. Perusal of the record reveals that the complaint case instituted under Section 138 of the Negotiable Instruments Act has been pending since the year 2018. The order-sheet of the learned trial court demonstrates that repeated and adequate opportunities were granted to the applicant for adducing defence evidence. Despite the grant of sufficient opportunities, including a last opportunity coupled with imposition of costs, the applicant failed to produce any defence evidence. The conduct of the applicant</p>
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clearly reflects lack of diligence in proceeding with the trial and has materially contributed to the delay in disposal of the complaint case.

12. The learned trial court, while passing the order dated 17.04.2025, duly considered the prolonged pendency of the matter as well as the conduct of the applicant. It is also relevant to note that Section 143(3) of the Negotiable Instruments Act mandates expeditious disposal of complaints under Section 138 of the Act, preferably within a period of six months from the date of filing of the complaint. However, in the present case, more than eight years have elapsed and the proceedings are still pending. In such circumstances, the learned trial court rightly exercised its discretion in closing the opportunity of the applicant to lead defence evidence vide order dated 17.04.2025. The learned revisional court has also examined the matter in detail and, upon due consideration of the facts and circumstances of the case, affirmed the order passed by the learned trial court by assigning cogent, valid and well-reasoned findings.

12. This Court does not find any illegality, perversity or jurisdictional error in the impugned orders warranting interference in exercise of powers under Section 528 B.N.S.S.

13. Accordingly, the present C-528 application, being devoid of merits, is hereby dismissed.

14. No order as to costs.

**(Alok Mahra, J.)**

19.05.2026



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