

No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p>C-528 No. 281 of 2024  <b><u>Hon'ble Alok Mahra, J.</u></b></p> <p>Mr. Ramji Srivastava, learned counsel for the applicant.</p> <p>2. Mr. Narendra Bali, learned counsel for the respondent.</p> <p>3. The present criminal misc. application is filed with a prayer to quash and set-aside the entire proceedings of Criminal Case No. 1307 of 2022, Dilip Upadhyay Vs. Sudhanshu Mishra, under Section 138 of Negotiable Instruments Act, 1881, pending in the court of learned Judicial Magistrate/1<sup>st</sup> Additional Civil Judge, Haridwar.</p> <p>4. Learned counsel for the applicant would submit that the grounds of challenging the summoning order is that the only dishonour of cheque does not amount to initiation of proceedings under Section 134. Learned counsel would further submit that a plain reading of the plaint would reveal that there is no enforceable liability against the applicant against which the complaint is maintainable and the applicant is innocent and he has falsely been implicated in the case and there is no evidence as such against the applicant. Learned counsel for the applicant would further submit that the learned Judicial Magistrate concerned, without application of mind, has passed the summoning order.</p> <p>5. <i>Per contra</i>, learned counsel for the respondent would submit that two registered sale deeds were registered in favour of the respondent by the applicant, but possession of the said land was not handed over to the respondent. Thereafter, an agreement was entered into between the applicant and respondent no. 1 on 02.09.2021, in which, it was agreed between the parties that the applicant would return the sale</p>

consideration amounting to Rs. 65 Lakhs to the respondent and the respondent would transfer the sale deed in favour of the applicant and on that date itself, when the agreement was entered into between them, two cheques amounting to Rs.16,25,00/- and Rs.48,75,000/- were handed over to the complainant. After this, one cheque amounting to Rs. Rs.16,25,00/- was encashed, but, other cheque of Rs.48,75,000/- was dishonoured. Thereafter, complaint under Section 138 of the Negotiable Instruments Act, 1881 was lodged.

6. Heard learned counsel for the applicant and perused the record.

7. Be that as it may, the agreement dated 02.09.2021 is admitted to both the parties, in pursuance of which, the cheque alleged to have been dishonoured was issued. The complainant after fulfilling all the prerequisite conditions, as mentioned in Section 138 of the N.I. Act, has filed the present complaint.

8. The court concerned has considered & discussed all relevant aspects. Thus, the view taken by the learned Judicial Magistrate concerned cannot be faulted. This Court does not find any infirmity or illegality in the summoning order dated 13.07.2022 passed by the court of learned Judicial Magistrate/1<sup>st</sup> Additional Civil Judge, Haridwar in Criminal Case No. 1307 of 2022, Dilip Upadhyay Vs. Sudhanshu Mishra, under Section 138 of Negotiable Instruments Act, 1881. Hence, this Court does not find any reason to interfere with the proceedings of Criminal Case No. 1307 of 2022, Dilip Upadhyay Vs. Sudhanshu Mishra.

9. Accordingly, the criminal misc. application fails and is hereby dismissed.

**(Alok Mahra J.)**

04.05.2026

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