

Whether the check was issued by way of security or in discharge of a legally enforceable debt is a matter of evidence that cannot be adjudicated in proceedings under Section 482 CrPC

The **Jammu & Kashmir & Ladakh High Court** in the case of **Deepak Bawa Sharma vs Asif Iqbal [CRM(M) No. 323/2023]** dated **February 13, 2026**, has held that whether the check was issued by way of security or in discharge of a legally enforceable debt is a matter of evidence that cannot be adjudicated in proceedings under Section 482 CrPC, and hence, dismissed the petition seeking quashing of proceedings under Section 138 of the Negotiable Instruments Act, 1881 (NI Act).

The case arose from a petition filed for the quashing of a complaint pending before the Trial Court under Section 138 of the NI Act. The complaint alleged the dishonour of a check for Rs. 35 lakhs issued by the petitioner. The record indicates that the petitioner had already appeared before the Trial Court, participated in the proceedings, and cross-examined the complainant's witnesses. It was also noted that upon being put on notice under Section 251 CrPC, the petitioner did not raise any specific plea that the check had been issued merely as security or that the liability had already been discharged.

The High Court rejected the petitioner's contention that the check was issued only as a security instrument and that no subsisting liability existed, and observed that proceedings under section 138 of the NI Act are governed by the statutory presumption contained in sections 118 and 139 of the NI Act. The Court held that disputed questions such as the nature of the check and existence of liability fall within the domain of trial and cannot be examined under inherent jurisdiction.

Since the complaint disclosed the ingredients constituting an offense under Section 138 of the NI Act and that no abuse of process was made out, the High Court declined interference and directed the trial court to proceed in accordance with law.