

**(2025) 01 UK CK 0005**

**Uttarakhand High Court**

**Case No:** Criminal Miscellaneous Application No. 1076 Of 2024

Vijay Bharti

APPELLANT

Vs

State Of Uttarakhand And  
Another

RESPONDENT

**Date of Decision:** Jan. 2, 2025

**Acts Referred:**

- Negotiable Instrument Act 1881 - Section 138
- Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 528

**Hon'ble Judges:** Pankaj Purohit, J

**Bench:** Single Bench

**Advocate:** Basant Singh, Harshpal Sekhon, B.C. Joshi

**Final Decision:** Dismissed

**Judgement**

Pankaj Purohit, J

1. By means of this C528 application, applicant has challenged the entire proceedings of the Criminal Complaint No.994 of 2023 titled as "Rajendra

Prasad Kohli Vs. Vijay Bharti", pending in court of learned Judicial Magistrate, Rudrapur, Udham Singh Nagar under Section 138 of the Negotiable

Instruments Act, 1881 (hereinafter referred to as "Act of 1881"), registered at Police Station Rudrapur, District Udham Singh Nagar as well as

quashing of cognizance & summoning order dated 18.12.2023.

2. It is contended by learned counsel for the applicant that as the complainant & the present applicant were friends, the complainant loaned

₹12,00,000/- to the applicant out of which ₹6,00,000/- & ₹3,00,000/- have already been paid to the complainant & endorsement to that effect has also

been taken by Rajendra Prasad Kohli (complainant). He also submitted that applicant is ready to pay the balance.

3. It is further contended by learned counsel for the applicant that Mr. R.P. Kohli lodged a complaint in C.M. Helpline with fictitious facts, knowledge

of which was acquired by the applicant by means of R.T.I. He also submits that Section 138 of Act of 1881 proceedings cannot be initiated for a

legally enforceable debt, therefore, the proceedings are liable to be quashed.

4. Having heard learned counsel for the applicant & having gone through entire record, it transpires that a cheque of amount ₹7,00,000 bearing

no.702108 was given by the applicant which was returned with a note of "fund insufficient" and thereafter after following the due process of law

proceedings under Section 138 of the Act of 1881 were initiated by learned Judicial Magistrate, Rudrapur, Udham Singh Nagar, therefore, this not

being a fit case to exercise extraordinary jurisdiction under Section 528 of the B.N.S.S. 2023, this Court is not inclined to interfere in the matter.

5. Accordingly, C528 application stands dismissed.