



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

56

CRM-M-17690-2026 (O&M)

Date of decision : 06.04.2026

Jagwinder Singh @Bunty & Anr.

..... Petitioners

VERSUS

Harkirat Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Manish Kansra, Advocate for the petitioners.

SURYA PARTAP SINGH, J.

This petition under Section 528 of the 'Bharatiya Nagarik Suraksha Sanhita, 2023', hereinafter being referred to as 'BNSS' only, has been filed for quashing of order dated 03.02.2026, passed by the learned Additional Sessions Judge Amritsar, hereinafter being referred to as 'revisional Court' only, in a revision petition. In the present petition, the quashing of order dated 26.09.2025, passed by the learned Judicial Magistrate First Class Amritsar, has also been sought.

2. In nut-shell, the facts emerging from record are that at the instance of respondent/complainant, hereinafter being referred to as 'respondent' only, a complaint for the commission of offence punishable under Section 138 of Negotiable Instruments Act, has been filed against the petitioners/accused, hereinafter being referred to as 'petitioners' only. The abovesaid complaint is pending before the learned trial Court. During the



course of abovementioned trial, the petitioners filed an application under Section 348 of BNSS for recalling the complainant for further cross-examination. However, the learned trial Court by virtue of order dated 26.09.2025 dismissed the abovementioned application. Aggrieved of the abovementioned order, the petitioner preferred a revision petition before the learned revisional Court, which was dismissed by virtue of order dated 03.02.2026. Both the abovementioned orders are under challenge in the present petition.

3. The abovementioned orders have been passed by the Courts below with regard to an application filed by the petitioners under Section 348 of BNSS. It was alleged by the petitioner that they had engaged a counsel to defend themselves in the abovementioned complaint, and that during the course of trial, when witnesses were examined by the respondent, the abovesaid witnesses were duly cross-examined by the counsel engaged by the petitioners. According to petitioners, their previous counsel had cross-examined the respondent, and that during the pendency of abovementioned case, when the petitioners engaged new counsel, it was told to them that their earlier counsel, at the time of cross-examination of respondent, had not cross-examined him with regard to several crucial aspects and therefore, it was necessary to recall the respondent for further cross-examination.

4. The application under Section 348 of BNSS was opposed by the respondent. Thereafter, the learned trial Court by virtue of order dated 26.09.2025 dismissed the abovementioned application and the revision



petition filed by the petitioners against the order dated 26.09.2025 has been dismissed by the learned revisional Court on 03.02.2026.

5. With regard to abovementioned fact situation, it is relevant to note here that there is a question mark with regard to maintainability of revision petition against an order passed by the learned trial Court, on an application under Section 348 of BNSS. Hence, with regard to verdict of the learned revisional Court, it is hereby observed that being not maintainable, the revision petition was bound to be dismissed by the learned revisional Court. Thus, it is held that there is no scope for indulgence in the abovementioned verdict of the learned revisional Court.

6. As far as the order dated 26.09.2025, passed by the learned trial Court, is concerned, a bare perusal of the abovementioned order shows that the learned trial Court was not convinced with the plea taken by the petitioners, for recalling and further cross-examination of respondent, because the details of questions, which were to be asked from the abovementioned witness during further cross-examination, were not given.

7. Heard.

8. It has been contended by learned counsel for the petitioners that the learned trial Court has committed an error of judgment, when it failed to appreciate the fact that denial of right of further cross-examination of respondent would amount to deprivation of right of petitioners to defend themselves during the course of trial. According to learned counsel for the petitioners, the order dated 26.09.2025 is not sustainable because it is likely



to lead to a situation, where the right to defend would be denied to an accused.

9. In addition to above, the learned counsel for the petitioners has also contended that otherwise also, no inconvenience is going to be caused to the respondent as he is a party in the case itself, and is supposed to appear before the Court on each and every date. It has also been contended by learned counsel for the petitioners that for the lapse committed by earlier counsel engaged by the petitioners, they should not be penalized. As per learned counsel for the petitioner, for any inconvenience, the respondent can be compensated in terms of costs.

10. According to learned counsel for the petitioners, the application has been dismissed on the sole ground that the details of questions to be asked from the respondent were not given in the application. With regard to above, it has been contended by learned counsel for the petitioners that giving details of such questions, which are supposed to be asked during further cross-examination of the respondent, would amount to disclosing the defence by the petitioners, which will cause prejudice to the right of defence of the petitioners.

11. The record has been perused carefully.

12. A careful perusal of record shows that the application under Section 348 of BNSS, seeking for recalling and further cross-examination of the respondent, has been moved on the sole ground that on the change of counsel, they have been advised that certain questions, which are crucial for



the defence of the petitioners, could not be asked and therefore, there is need for recalling of complainant as witness.

13. Here this fact cannot be ignored that the recalling and further cross-examination of witness is being sought, merely on the basis of vague averments in the application. In fact it has never been the spirit of law that the respondent, who has approached the Court, being aggrieved of the criminal act of the accused, should be subjected to harassment by repeated cross-examination. Unless the specific plea is taken by the petitioners, detailing therein the fields/aspects for which the further cross-examination is necessary, it is not possible for the learned trial Court to analyze as to whether the request of petitioners/accused for further cross-examination of respondent/complainant is genuine or not. Once the petitioners themselves have created a situation, wherein everything was blurred, inconclusive and vague, a direction for further cross-examination of the respondent is not possible.

14. It shall not be out of place to mention here that the right to move an application under Section 348 of BNSS is not an absolute right and unless sufficient ground is shown by the applicant, moving the application under Section 348 of BNSS, such application cannot be allowed. In the present case, as already discussed above, no such reason was given by the petitioners and therefore, it is hereby held that by proper analyses of the fact as well as law, a right conclusion has been drawn by the learned trial Court, while dismissing the application of the petitioners under Section 348 of BNSS.



15. As a sequel to abovementioned discussion, it is hereby observed that there is no scope for indulgence in the abovementioned order passed by the learned trial Court, and the abovementioned order deserves to be affirmed. Hence, finding no merit in the present petition, the same is hereby *dismissed* and the impugned order passed by the learned trial Court is hereby affirmed.

16. Pending miscellaneous application(s), if any, shall also stand disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

06.04.2026

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No