CIVIL

Authorized Officials Can Testify: J&K High Court Eases Cheque Bounce Procedure

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Introduction

In a pivotal judgment in Iftikhar Ashraf Trumboo v. Furqan Ahmad Rather[1] decided on 26 May 2025, which simplifies procedural requirements in cheque dishonour litigation, the High Court of Jammu & Kashmir held that the personal appearance of a Branch Manager is not a legal prerequisite for proving bank records in proceedings under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the "**NI Act**"). The Court affirmed that any duly authorized bank official with access to the relevant records is competent to testify, thereby disapproving the Trial Magistrate's overly technical interpretation of procedure. .

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Factual Background

The matter arose from a complaint instituted under Section 138 of the NI Act, wherein the complainant alleged that a cheque issued by the respondent was dishonoured due to insufficient funds. To substantiate the dishonour, the complainant had listed the Branch Manager of the concerned bank as a witness. However, owing to the manager's unavailability, an authorized representative was deputed to appear before the Trial Court.

The Trial Magistrate declined to record the representative's testimony, insisting that a formal application for substitution be filed and that the accused be allowed to raise objections. This procedural stance delayed the proceedings, prompting the petitioner to seek a remedy before the High Court.

Rival Contentions

Petitioner's Contentions: The petitioner contended that the authorized representative of the bank was fully competent to depose, as he had access to all requisite records necessary to establish the dishonour of the cheque. It was argued that no statutory provision mandates the personal appearance of the Branch Manager for such testimony. Further, the Trial Court's insistence on procedural formalities, such as filing a separate application for substitution, was unwarranted and contrary to the objective of expeditious adjudication under Section 138 of the NI Act.

Respondent's Contentions: The respondent maintained that the substitution of a witness necessitated a formal motion and that the accused must be afforded an opportunity to object. It was argued that bypassing such procedural safeguards could compromise natural justice and potentially prejudice the rights of the accused.

Legal Framework and Judicial Reasoning: Section 138 of the NI Act prescribes penal consequences for cheque dishonour due to insufficient funds, aiming to preserve trust in commercial transactions through swift legal remedies. Courts have consistently held that such proceedings should not be stalled by technical formalities.

In Iftikhar Ashraf Trumboo, the Jammu & Kashmir High Court addressed the refusal of a Trial Magistrate to record the statement of an authorized bank representative. The Magistrate insisted on the presence of the Branch Manager and a formal application with an opportunity for the accused to object.

Justice Sanjay Dhar ruled this approach to be procedurally excessive and legally incorrect. The Court clarified that any responsible bank officer with access to account records in the ordinary course of business is competent to testify under Section 138 NI Act. Their testimony is limited to proving documentary evidence, like cheque return memos, and does not require personal knowledge.

The Court also found the invocation of Section 302 of the Criminal Procedure Code, which governs the examination of witnesses in summary trials, unnecessary, noting that such insistence obstructs the summary nature intended for cheque dishonour proceedings under Section 138.

The admissibility of such documents is governed by Sections 65B and 67 of the Indian Evidence Act, 1872. While Section 65B enables the admission of electronic records maintained in the ordinary course of business without requiring the witness to have personal knowledge, Section 67 applies to the proof of handwriting or signatures on documents, where relevant. Together, these provisions ensure that routine bank records can be relied upon in evidence without imposing unnecessary procedural burdens.

Accordingly, the High Court set aside the Magistrate's order and directed that the statement of the authorized bank official be recorded without additional procedural hurdles.

Judicial Precedents and Statutory Support:

The High Court's decision aligns with established legal principles promoting prompt justice in cheque dishonour cases. In Indian Bank Association v. Union of India (2014)[2], the Supreme Court emphasized the importance of expeditious disposal of Section 138 cases to preserve the statute's remedial purpose.

Sections 65B and 67 of the Indian Evidence Act enable the admissibility of bank records as electronic or documentary evidence without requiring personal knowledge by the witness, as long as records are maintained in the ordinary course of business.

Further, several High Courts have held that authorized bank officials other than the Branch Manager are competent to testify regarding such records. This reinforces the ruling that procedural formalities such as demanding the Branch Manager's presence or requiring formal objections should not delay evidence recording in Section 138 proceedings.

Key Judicial Observations

- Any authorized bank official with access to account records can testify in Section 138 NI Act cases; their role is limited to proving documentary evidence, not personal knowledge.
- The Trial Magistrate's demand for formal objections and applications before recording the bank representative's statement was rejected as an unnecessary procedural hurdle delaying summary proceedings.

Conclusion

The Jammu & Kashmir High Court's ruling in Iftikhar Ashraf Trumboo v. Furqan Ahmad Rather represents a significant step toward simplifying cheque dishonour cases. The Court's approach aligns with accepted principles on business records' admissibility, where personal recollection is not mandatory. This promotes judicial efficiency while balancing procedural safeguards and commercial realities. By affirming the competence of authorized bank officials to testify and discouraging unnecessary procedural formalities, the Court reinforces the principle of swift and effective justice under Section 138 of the NI Act. This decision is poised to influence courts nationwide to ensure procedural technicalities do not hinder the prompt resolution of cheque bounce disputes.

For more details, write to us at: **contact@indialaw.in**

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[1] Iftikhar Ashraf Trumboo v. Furqan Ahmad Rather, CRM(M) 275/2025 CrlM (645/2025)

[2] Indian Bank Association & Ors. v. Union of India & Ors., (2014) 5 SCC 590

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