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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 14.11.2025*+ **CRL.REV.P. 19/2024 & CRL.M.(BAIL) 10/2024**

RAJENDRA SINGHPetitioner

Through: Mr. Manish Raghav,
Advocate.

versus

SAROJ SINGHRespondent

Through: Mr. Bhagwan Jha, Advocate

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of the present revision petition, the petitioner is seeking setting aside of the impugned judgment and order dated 07.07.2023 passed by the learned Additional and Sessions Judge-05, Saket Courts, Delhi [hereafter '*Sessions Court*'] *vide* which the judgment dated 31.08.2020 passed by the learned Metropolitan Magistrate (NI-02), South-East, Saket Courts, Delhi [hereafter '*Trial Court*'] was upheld.

2. Briefly stated, the facts of the present case, are that the petitioner, who was a property dealer by profession, had sold a property measuring 167.40 sq. yards situated at Radha Kunj Colony,



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Sikandra, Agra, to the respondent on 06.11.1987; however, the possession of the same had not been handed over to the respondent. A settlement agreement had been arrived at between the parties on 27.09.2015, wherein it had been agreed that the petitioner would pay an amount of ₹6,48,000/- to the respondent, and the respondent would not claim any right over the said property. In pursuance thereof, the petitioner had handed over the cheques in question as per the said settlement agreement. It had been the case of the petitioner that he had issued a cheque for ₹6,48,000/- as consideration, which had been dishonoured on 11.01.2016. The respondent had thereafter filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 [hereafter '*NI Act*'], which eventually led to conviction of the petitioner by the learned Trial Court *vide* judgment 31.08.2020, whereby he was sentenced to undergo simple imprisonment for one year and to pay a fine of ₹9,72,000/-, and in default thereof, to further undergo simple imprisonment for 15 days.

3. Aggrieved thereby, the petitioner had preferred an appeal i.e. Crl.Appeal No. 153/2020 before the learned Sessions Court, but the same came to be dismissed *vide* the impugned judgment. Accordingly, the petitioner has approached this Court by way of this petition.

4. The learned counsel appearing for the petitioner argues that the dishonoured cheque had been issued only as advance consideration under the agreement dated 27.09.2015, which the respondent had



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breached by failing to cancel the sale deed dated 06.11.1987 and transfer plot no. 47, Radha Kunj Colony, Agra. It is submitted that the essential ingredient under Section 138 of the NI Act – existence of a legally enforceable debt or liability at the time of presentation of the cheque – had not been proved in this case. The respondent had neither cancelled the sale deed nor transferred possession or documents of the property, thereby breaching the terms of the settlement. Thus, no legally enforceable debt existed when the cheque was presented. It is further contended that the presumptions under Sections 118 and 139 of the NI Act are rebuttable, and in this case, stood rebutted as the cheque was contingent upon the respondent fulfilling her obligations. Therefore, the conviction recorded by the learned Magistrate and upheld by the learned Sessions Court is erroneous and liable to be set aside.

5. The learned counsel appearing for the respondent, on the other hand, argues that the settlement agreement dated 27.09.2015 had been voluntarily executed between the parties, under which the petitioner had agreed to pay ₹6,48,000/- to the respondent, who, in turn, had relinquished all rights and claims over the property in question. In pursuance of the said settlement, the petitioner had issued the cheque in question. It is submitted that the respondent had duly performed her part of the agreement by giving up possession and all rights over the property, whereas the cheque issued by the petitioner towards the settled amount had been dishonoured. It is further argued that the defence taken by the petitioner during trial –



that the liability, if any, was of the Shiva Shakti Educational Society – is devoid of merit, since the petitioner had personally entered into the settlement in his individual capacity, and the cheque had also been issued from his personal account, not that of the society. The learned counsel points out that merely mentioning the word “Secretary” after his name does not establish that he had acted in a representative capacity. Had he been acting on behalf of the society, the agreement would have clearly stated so. It is also submitted that the petitioner had taken money from the respondent as far back as 1987 and, despite several settlements over the years, had failed to repay the amount or comply with the agreed terms. The learned Trial Court, therefore, rightly held that the settlement agreement (Ex. CW1/D) was valid and binding upon the petitioner personally and that the cheque was issued in pursuance thereof. Since the cheque had been drawn on the petitioner’s personal account, the liability to make payment also rested upon him and not upon the society. It is accordingly prayed that the revision petition filed by the petitioner be dismissed being devoid of merit.

6. This Court has **heard** arguments addressed on behalf of the petitioner as well as the respondent, and has perused the material available on record.

7. Insofar as the scope of present petition is concerned, it is well-settled that the High Court in criminal revision against conviction is not supposed to exercise the jurisdiction akin to the appellate court



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and the scope of interference is limited. Section 397 of the Cr.P.C. vests jurisdiction for the purpose of satisfying the Court as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior court. It is also well settled that while considering the same, the Revisional Court does not dwell at length upon the facts and evidence of the case [Ref: ***Malkeet Singh Gill v. State of Chhattisgarh*: (2022) 8 SCC 204; *State of Gujarat v. Dilipsinh Kishorsinh Rao*: 2023 SCC OnLine SC 1294**].

8. The petitioner herein has been convicted and sentenced for commission of offence under Section 138 of the NI Act, in which regard, concurrent findings have been recorded by the Courts below. As regards the essential ingredients required to establish the commission of an offence under Section 138 of the NI Act, the Hon'ble Supreme Court, in ***Gimpex (P) Ltd. v. Manoj Goel*: (2022) 11 SCC 705**, has lucidly enumerated the same in the following terms:

“26. The ingredients of the offence under Section 138 are:

26.1. The drawing of a cheque by person on an account maintained by him with the banker for the payment of any amount of money to another from that account;

26.2. The cheque being drawn for the discharge in whole or in part of any debt or other liability;

26.3. Presentation of the cheque to the bank;

26.4. The return of the cheque by the drawee bank as unpaid either because the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account;

26.5. A notice by the payee or the holder in due course making



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a demand for the payment of the amount to the drawer of the cheque within 30 days of the receipt of information from the bank in regard to the return of the cheque; and

26.6. The drawer of the cheque failing to make payment of the amount of money to the payee or the holder in due course within 15 days of the receipt of the notice.”

9. There is no dispute that, to constitute an offence under Section 138 of the NI Act, the cheque in question must have been issued in discharge of a legally enforceable debt or liability. However, Section 139 of the NI Act provides that once the drawer admits his signature on the cheque, a statutory presumption arises that the cheque was issued for the discharge, in whole or in part, of a debt or other liability. Section 118 of the NI Act further lays down a presumption that every negotiable instrument, when held by a holder in due course, has been made or drawn for consideration. In addition, Section 20 of the NI Act stipulates that when a person signs and delivers a stamped but otherwise incomplete negotiable instrument, he thereby authorizes the holder to complete it for any amount not exceeding the value covered by the stamp. The scope and effect of these presumptions have been comprehensively explained by the Hon’ble Supreme Court in ***Bir Singh v. Mukesh Kumar: (2019) 4 SCC 197***, wherein it was observed:

“33. A meaningful reading of the provisions of the Negotiable Instruments Act including, in particular, Sections 20, 87 and 139, makes it amply clear that a person who signs a cheque and makes it over to the payee remains liable unless he adduces evidence to rebut the presumption that the cheque had been issued for payment of a debt or in discharge of a liability. It is immaterial that the cheque may have been filled in by any



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person other than the drawer, if the cheque is duly signed by the drawer. If the cheque is otherwise valid, the penal provisions of Section 138 would be attracted.

34. If a signed blank cheque is voluntarily presented to a payee, towards some payment, the payee may fill up the amount and other particulars. This in itself would not invalidate the cheque. The onus would still be on the accused to prove that the cheque was not in discharge of a debt or liability by adducing evidence.”

10. This Court notes that, in a nutshell, the case set up by the petitioner is that he has been wrongly convicted for offence under Section 138 of the NI Act as the cheque in question was allegedly not issued by him in his personal capacity but on behalf of a society of which he was a member. Thus, the petitioner does not dispute his signatures on the cheques in question. It is the petitioner’s contention that the liability in question did not pertain to him personally but to the said society, and therefore, he cannot be held criminally liable for the dishonour of the cheque. The petitioner has further submitted that the cheque was issued only as a security instrument, and not towards the discharge of any legally enforceable debt or liability.

11. This Court notes that the primary argument raised by the petitioner is that there was no legally enforceable debt against him, as the original transaction pertained to the society, and therefore, the liability, if any, was that of the society and not his personal liability. *However*, this Court finds that such a defence has been rightly rejected by the learned Trial Court and learned Sessions Court. The execution of the settlement agreement dated 27.09.2015 is not in



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dispute. A perusal of the said document further reveals that it was executed between the complainant and the accused, and there is no indication that the petitioner had signed it on behalf of or in a representative capacity for any society. The agreement bears only the name and signature of the accused without any expression suggesting that he had acted for or on behalf of the society.

12. This Court further observes that a careful reading of the settlement agreement dated 27.09.2015 clearly reveals that the accused/petitioner had undertaken certain obligations in his individual capacity. The language of the document is unequivocal and does not suggest at any point that the agreement was entered into by him in a representative or fiduciary capacity for any society or organisation. The agreement opens with the names of the parties, wherein the petitioner herein is described by his individual particulars and not as an office bearer or representative of any entity. Further, the terms of the agreement also make it apparent that the commitments undertaken were personal in nature, as they imposed reciprocal obligations between the complainant and the accused alone.

13. It is also undisputed that the cheque in question was drawn on the personal bank account of the accused and was signed by him. The signature on the cheque stands admitted, and therefore, the statutory presumptions under Sections 118 and 139 of the NI Act were rightly drawn against him. The petitioner has failed to rebut these presumptions by leading any credible or cogent evidence. Mere



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assertions that the liability was of the society, without any supporting material, cannot displace the presumption of law once the execution and issuance of the cheque are admitted.

14. The learned Trial Court had further observed, and this Court concurs, that even if it were assumed that the underlying liability was of the society, the accused, having issued a cheque from his personal account in discharge of such liability, would still be liable under Section 138 of the NI Act. The language of Section 138 is clear that the offence is attracted where “any cheque” is drawn for the discharge, in whole or in part, of any debt or other liability.

15. The contention of the accused that he had issued the cheque merely as a security, or that it was obtained under coercion, also stands rightly rejected by the Trial Court, as no material or evidence had been produced to substantiate these claims. The alleged reply to the legal notice relied upon by the accused had not been proved in accordance with law, and in any event, he had himself denied sending such a reply in his statement under Section 313 of CrPC.

16. This Court also finds no merit in the argument that the complaint was defective for not impleading the society as a party. Since the cheque was issued from the personal account of the accused and signed by him in his individual capacity, there was no legal requirement to array the society as an accused.

17. In view of the foregoing discussion, it stands proved that the accused had entered into the settlement agreement voluntarily, had



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issued the cheque in his personal capacity towards the agreed amount, and that the cheque, on presentation, had been dishonoured. The presumption under Sections 118 and 139 of the NI Act, therefore, operates against him, and he has failed to rebut the same.

18. Accordingly, this Court agrees with the concurrent findings of the learned Trial Court and the learned Sessions Court that the cheque in question was issued in discharge of a legally enforceable debt, and the accused was personally liable for its payment. The findings of the learned Trial Court and learned Sessions Court are well reasoned and supported by the material on record.

19. This Court, therefore, finds no ground to interfere with the conviction and sentence awarded to the petitioner for commission of offence under Section 138 of the NI Act.

20. The present petition is accordingly dismissed. Pending application also stands disposed of.

21. The petitioner is directed to surrender and serve the sentence awarded to him, within a period of three weeks from date.

22. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
NOVEMBER 14, 2025/vc