

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
Criminal Revision Petition No.24 of 2025

Sri Joydeb Kar, son of late Nani Kar, resident of Gakulnagar, Rastar Matha,
P.O. Gakulnagar, P.S. Bishalgarh, District- West Tripura, Pin-799102.

..... Petitioner(s)

V E R S U S

1. Tata Motors Finance Limited, No.87, H.G.B Road, Battala, Opposite Madan Mohan Mandir, Agartala, P.S. West Agartala, P.O. Agartala, District- West Tripura.
2. The State of Tripura, represented by the Secretary, Department of Home, Agartala, West Tripura.

..... Respondent(s)

For Petitioner(s) : Mr. Debajit Biswas, Advocate.

For Respondent(s) : Mr. Raju Datta, Public Prosecutor,
Mr. Rajib Saha, Addl. Public Prosecutor.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

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23/04/2025

Heard Mr. Debajit Biswas, learned counsel appearing for the petitioner and also heard Mr. Raju Datta, learned Public Prosecutor appearing for the respondent-State.

[2] By the impugned judgment dated 13.01.2025 in Criminal Appeal No.13 of 2023, the learned Additional Sessions Judge, Court No.4, Agartala, West Tripura has confirmed the judgment of conviction and order of sentence passed by the learned Additional Chief Judicial Magistrate, Agartala, West Tripura in NI No.176 of 2014 dated 18.05.2023 whereby the petitioner has been convicted for commission of offence under Section 138 of the Negotiable Instruments Act, 1881 (*NI Act, for short*) and sentenced him to pay fine of Rs.75,138/- i.e. the cheque amount. On failure to pay such

compensation, petitioner shall be subjected to simple imprisonment (SI) for a period of six months.

[3] From perusal of the judgments of the learned Trial Court and the materials placed from record, it is evident that all the necessary ingredients under Section 138 of the NI Act were duly established by the complainant. The original cheque was proved as [Ext.-1]. The cheque dishonour memo was proved as [Ext.-2]. The postal receipt of service of notice with postal report is enclosed as [Ext.-3 & 3/1]. Copy of letter dated 07.07.2014 addressed to the postal authority was proved as [Ext.-4]. The reply of postal authority was proved as [Ext.4/1]. Copy of power of attorney as [Ext.-5] and copy of the demand notice as [Ext.-6] were all proved by the respondent-complainant, Sri Pritam Choudhury, the authorized person. The cheque amount of Rs.75,138/- bearing No.898551 dated 10.06.2014 drawn on Tripura Gramin Bank was issued for payment against the outstanding loan amount.

[4] The complainant has been fighting the litigation since 2014. The learned Appellate Court has considered all the materials placed during trial and also dealt with the objection as regards the authorization of P.W.1 Sri Pritam Choudhury to prove the case of the complainant. P.W.1 was authorized by the Chief Financial Manager of the Company to commence, carry and to file any type of legal proceedings including but not limited to filing of civil suits and complaint under Section 138 of the NI Act on behalf of the company. The learned Appellate Court also held that Sri Sabyasachi

Datta was not the complainant of the case but complainant was the company itself and he was the Area Legal Manager being the authorized signatory who signed the complaint as instrumentality of the juristic person.

[5] Learned counsel for the petitioner has assailed the impugned findings before the Appellate Court on the ground that the ingredients of the offence under Section 138 were not duly established. Moreover, P.W.1 had deposed as the authorized representative of the company on the basis of Ext.-5 which was issued on 11.11.2021 after his deposition. However, no such specific ground has been shown to be taken by the petitioner before the learned Appellate Court though the Appellate Court has dealt with it at paragraph 18 of the impugned judgment. As a matter of fact, Sri Sabyasachi Datta had instituted the complaint on behalf of the respondent-complainant company. The learned Trial Court though found all the ingredients of the offence made out but has restricted the sentence to payment of fine of Rs.75,138/- only i.e. the cheque amount under dishonour instead of imposing any further compensation.

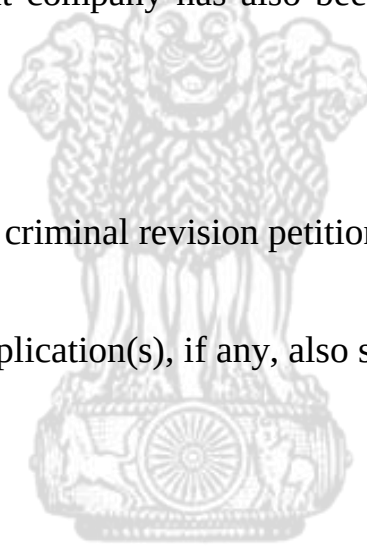
[6] Mr. Raju Datta, learned Public Prosecutor has opposed the prayer and submits that there is no infirmity or irregularities in the judgment of the learned Trial Court. The instant revision petition may, therefore, be dismissed.

[7] I have considered the submissions of learned counsel for the parties and taken note of the relevant materials placed from record. The complainant has been fighting this litigation for the last 11 years. Upon

consideration of the facts and circumstances and the materials placed from record, this Court does not find any error or procedural irregularities in the impugned judgment calling for any interference. The ingredients of the offence under Section 138 of the NI Act have been duly established by adducing the relevant documents as Exhibit 1 to Exhibit 6. Petitioner has not been able to rebut the presumption attached to the instrument i.e. cheque as per Section 139 of the Act. The plea regarding the deposition by PW1 on behalf of the respondent company has also been duly dealt by the learned Appellate Court.

[8] The instant criminal revision petition is, accordingly, dismissed.

Pending application(s), if any, also stands disposed of.



(APARESH KUMAR SINGH) CJ

DIPESH DEB

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