



| SL. No. | Date | Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures | COURT'S OR JUDGE'S ORDERS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|         |      |                                                                                                  | <p><b><u>CRLR/638/2025</u></b></p> <p>Shrikant .....Revisionist</p> <p style="text-align: center;"><b>Versus</b></p> <p>State Of Uttarakhand .....Respondent</p> <p><b><u>Hon'ble Alok Mahra, J. (Oral)</u></b></p> <p>No representation for the revisionist though called twice.</p> <p>2. Mr. S.S. Chauhan, learned Deputy A.G. along with Mr. Vikash Uniyal, learned Brief Holder for the State.</p> <p>3. Mr. Shashank Saun, learned counsel for respondent no.2 through Video Conferencing.</p> <p>4. By means of the present criminal revision, the revisionist has assailed the judgment and order dated 14.07.2025 passed by the learned 4<sup>th</sup> Additional Sessions Judge, Dehradun in Criminal Appeal No. 376 of 2023, whereby the criminal appeal preferred by the revisionist was dismissed and the judgment and order dated 03.11.2023 passed by the learned 1<sup>st</sup> Judicial Magistrate, Dehradun in Criminal Case No. 3248 of 2020 was affirmed. By the judgment of conviction, the learned Trial Court convicted the revisionist for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentenced him to undergo simple imprisonment for a period of three months and to pay a fine of ₹1,85,000/-, with a further direction that, in default</p> |



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|  |  | <p>of payment of fine, he shall undergo simple imprisonment for fifteen days.</p> <p>5. It is pleaded in the criminal revision that the complaint instituted by respondent no.2 under Section 138 of the Negotiable Instruments Act is based on false and fabricated allegations with the sole intention of extracting money from the revisionist; that, no legally enforceable debt or liability existed against the revisionist in respect of the cheque in question; that, both the courts below failed to appreciate the material contradictions between the averments made in the complaint and the pleadings contained in the application filed by the complainant. It is also pleaded that the statement of the revisionist recorded under Section 313 of the Cr.P.C. wherein he specifically denied having issued the cheque towards discharge of any legally enforceable liability, has not been properly appreciated. According to the revisionist, the cheque was issued only in connection with a proposed property transaction between the parties and not towards repayment of any loan or other enforceable debt.</p> <p>6. It is further stated that the courts below erred in law in treating the mere issuance of the cheque as conclusive proof of the existence of a legally enforceable debt; that, the revisionist successfully discharged the initial burden by placing on record material indicating that the cheque had not been issued in discharge of any legally enforceable debt, whereafter the burden shifted upon the complainant to prove the existence of such liability, which,</p> |
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|  |  | <p>according to the revisionist, has not been established; that, the documentary evidence relating to the property transaction produced by the revisionist before the learned Trial Court has not been duly considered either by the Trial Court or by the Appellate Court; that, the conviction has been recorded solely on the basis of the oral testimony of the complainant without proper appreciation of the defence evidence, rendering the findings unsustainable in law.</p> <p>7. Per contra, learned counsel appearing for respondent no.2/ complainant would submit that the parties were on friendly terms, and on account of such relationship, the complainant had advanced a friendly loan of ₹1,60,000/- to the revisionist. In discharge of the said liability, the revisionist issued the cheque in question; that, upon presentation, the cheque was dishonoured with the endorsement "Payment Stopped by Drawer"; that, thereafter, a statutory demand notice was duly issued calling upon the revisionist to make payment of the cheque amount within the prescribed period; that, despite service of the statutory notice, the revisionist failed to make payment, compelling the complainant to institute the complaint under Section 138 of the Negotiable Instruments Act.</p> <p>8. He would further submit that after due appreciation of the evidence on record, the learned Trial Court rightly convicted the revisionist and the said judgment has rightly been affirmed by the learned Appellate Court. It is,</p> |
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|  |  |  | <p>therefore, contended that the present revision is devoid of merit and is liable to be dismissed.</p> <p>9. Heard learned counsel for the complainant/respondent no.2 and perused the material available on record.</p> <p>10. The Hon'ble Supreme Court in <i>Bir Singh v. Mukesh Kumar</i>, (2019) 4 SCC 197, has held that once the execution of the cheque and the signature of the drawer are admitted or proved, the statutory presumptions under Sections 118(a) and 139 of the Negotiable Instruments Act arise in favour of the holder of the cheque that it was issued for consideration and in discharge of a legally enforceable debt or liability. The burden thereafter shifts upon the accused to rebut the statutory presumptions by raising a probable defence on the touchstone of preponderance of probabilities. A mere denial of liability, unsupported by cogent evidence, is insufficient to rebut the statutory presumption.</p> <p>11. In the present case, the revisionist has not disputed his signatures on the cheque in question. Consequently, the statutory presumptions under Sections 118(a) and 139 of the Negotiable Instruments Act stood attracted. The defence set up by the revisionist that the cheque had been issued in connection with a property transaction and not towards discharge of any legally enforceable debt has been duly considered by both the learned Trial Court as well as the learned Appellate Court. Upon appreciation of the oral as well as documentary evidence adduced</p> |
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|  |  |  | <p>by the parties, both the courts have concurrently recorded a finding that the revisionist failed to rebut the statutory presumptions and that the complainant succeeded in proving the ingredients of the offence under Section 138 of the Negotiable Instruments Act.</p> <p>12. It is well settled that the revisional jurisdiction of this Court is confined to examining the legality, correctness and propriety of the findings recorded by the courts below and does not permit re-appreciation of evidence merely because another view is possible. Unless the findings suffer from patent perversity, manifest illegality or jurisdictional error, interference in revisional jurisdiction is unwarranted.</p> <p>13. Upon careful consideration of the impugned judgments and the material available on record, this Court does not find any perversity, material irregularity, misreading of evidence or jurisdictional error warranting interference with the concurrent findings recorded by the courts below.</p> <p>14. Accordingly, the present criminal revision, being devoid of merit, is hereby dismissed.</p> <p>15. There shall be no order as to costs.</p> |
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Digitally signed by MAMTA RANI (Alok Mahra, J.)  
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