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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010052822026

+ **CRL.REV.P.(NI) 42/2026 and CRL.M.(BAIL) 345/2026**

MANI DEO JHA

.....Revisionist

Through: Mr. Braj Kishore Roy, Advocate
through VC.

versus

LALIT KUMAR JHA

.....Respondent

Through: Mr. Girish Bhandari and
Mr.Gagandeep, Advocates.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **15.09.2026**

1. By way of the instant revision petition filed under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ["BNSS"] (pari materia with Sections 397 and 401 of the Code of Criminal Procedure, 1973 ["Cr.P.C."]), the revisionist assails the order dated 13.05.2025 passed by the Additional Sessions Judge-05, Dwarka Courts, New Delhi, in Criminal Appeal No. 2110/2024, whereby the appellate court affirmed the judgment dated 02.11.2023 convicting the revisionist for the offence under Section 138 of the Negotiable Instruments Act, 1881 ["NI Act"], as also the order on sentence dated 02.08.2024, whereby the revisionist was directed to pay compensation of Rs. 3,30,000/- together with simple interest at 9% per annum from the date of issuance of the cheques till the date of the order on sentence, not exceeding twice the cheque amount, within a period of one



month, in default whereof, to undergo simple imprisonment for a period of six months, under Section 357(3) of the Cr.P.C.

2. It is the case of the respondent/complainant that he and the revisionist were known to each other and shared a friendly relationship. It is alleged that on 08.08.2019, the revisionist approached the respondent seeking a personal loan of Rs. 3,50,000/- for medical treatment of his wife and to meet his personal needs. The respondent arranged part of the amount from his relative and advanced the balance from his own savings, extending the loan to the revisionist on different occasions. It is further alleged that when the revisionist did not repay the amount despite lapse of considerable time, he handed over Rs. 20,000/- in cash and issued three cheques towards discharge of the loan, namely, cheque No. 282346 dated 07.10.2019 for Rs. 50,000/-, cheque No. 282347 dated 07.10.2019 for Rs. 1,00,000/-, and cheque No. 282351 dated 07.11.2019 for Rs. 1,80,000/-, all drawn on Axis Bank Ltd., Najafgarh Branch, New Delhi (hereinafter, “the cheques in question”).

3. On presentation, the cheques in question were returned unpaid *vide* return memo dated 18.11.2019 with the remark “Payment Stopped by Drawer”. Consequent thereto, the respondent issued a legal demand notice dated 04.12.2019 calling upon the revisionist to make payment of the cheque amount within the statutory period. Despite service of the said notice, the revisionist failed to make payment within fifteen days therefrom, culminating in the institution of a complaint under Section 138 of the NI Act, being CC No. 1041/2020, before the Court of the Judicial Magistrate, First Class (NI Act)-01, South-West District, Dwarka Courts, New Delhi.

4. Upon the Trial Court forming a *prima facie* opinion against the revisionist, notice under Section 251 of the Cr.P.C. was framed on



11.04.2022, to which the revisionist pleaded not guilty. In his response to the said notice, the revisionist admitted that the cheques in question bore his signatures, that he had filled in the particulars thereon, and that he had received the legal demand notice. He, however, took the specific defence that the parties had thereafter arrived at a settlement for repayment in instalments commencing April 2020; and that the respondent, in breach of the said settlement, prematurely presented the cheques for encashment. He accordingly disputed his liability to the extent of Rs. 3,30,000/- and admitted liability only to the extent of approximately Rs. 1,30,000/-.

5. *Vide* judgment dated 02.11.2023, the Trial Court held that once the revisionist had admitted his signatures on the cheques in question at the stage of notice under Section 251 of the Cr.P.C., as also in his statement under Section 313 of the Cr.P.C., the statutory presumption under Sections 118 and 139 of the NI Act stood attracted, casting the burden upon the revisionist to rebut the same on a preponderance of probabilities. The Trial Court found that the revisionist, having neither examined himself nor led any defence evidence, and having failed to explain the fate of the two cheques he claimed to have issued as security, had not discharged the said burden, and that the minor inconsistencies pointed out in the respondent's version did not detract from the presumption. Holding that all the statutory ingredients of Section 138 of the NI Act stood established, the Trial Court convicted the revisionist for the said offence.

6. Aggrieved thereby, the revisionist preferred Criminal Appeal No. 2110/2024 before the Court of Sessions. The record of the appellate proceedings, however, reflects that upon institution of the appeal on 31.08.2024, the revisionist neither deposited 20% of the compensation



amount as a condition for suspension of sentence, nor appeared to address arguments despite repeated opportunities afforded to him, and that none appeared on his behalf even on the date the appeal was finally taken up for disposal.

7. Notwithstanding the absence of the revisionist and the appeal remaining unargued on his behalf, the Appellate Court did not dispose of the appeal for non-prosecution, but proceeded to independently examine the Trial Court record and the merits of the conviction.

8. The Appellate Court held that all the witnesses examined by the respondent had consistently deposed to the advancement of the loan on three occasions, that the revisionist had admitted issuance of all three cheques as well as receipt of the legal demand notice, and that in the absence of any evidence led by the revisionist to substantiate his claim that his liability was confined to Rs. 1,50,000/-, the presumption raised under Sections 118 and 139 of the NI Act stood unrebutted. On this reasoning, the Appellate Court held that the Trial Court had rightly convicted the revisionist, found no infirmity or illegality in the judgment dated 02.11.2023, and dismissed the appeal insofar as it challenged the conviction.

9. On the question of sentence, the Appellate Court took note of the decision in ***Kalamani Tex & Anr. v. P. Balasubramanian***,¹ wherein it was held:

“19. As regards the claim of compensation raised on behalf of the Respondent, we are conscious of the settled principles that the object of Chapter XVII of NIA is not only punitive but also compensatory and restitutive. The provisions of NIA envision a single window for criminal liability for dishonour of cheque as well as civil liability for realization of the cheque amount. It is also well settled that there needs to be a

¹ (2021) 5 SCC 283.



consistent approach towards awarding compensation and unless there exist special circumstances, the courts should uniformly levy fine up to twice the cheque amount along with simple interest @ 9% p.a.”

10. Noticing that the Trial Court had already taken a lenient view by restricting compensation to the cheque amount together with interest, as opposed to the statutory ceiling of twice the cheque amount, the Appellate Court found no infirmity in the order on sentence dated 02.08.2024 and dismissed the appeal in its entirety *vide* the impugned order dated 13.05.2025.

11. Learned counsel for the revisionist, while assailing the impugned order, has broadly urged the following: **first**, that the revisionist's liability was, at the highest, to the tune of Rs. 1,50,000/-, and that the two cheques bearing No. 282346 and 282347 had been issued only by way of security, a fact which ought to have weighed with the courts below; **second**, that the revisionist's counsel before the Appellate Court failed to pursue the appeal with due diligence and did not keep the revisionist informed of the status thereof, on account of which the revisionist was denied an effective opportunity of being heard in appeal; **third**, that the two cheques bearing No. 282346 and 282347 are of the same date and drawn on the same bank, a circumstance said to cast doubt upon the respondent's version; and **fourth**, that the revisionist is a physically challenged person and the sole breadwinner of a family that includes his wife, a cancer patient, circumstances which, it is submitted, warrants a lenient view.

12. *Per contra*, learned counsel for the respondent submits that the present petition assails concurrent findings of fact rendered by two courts below, neither of which suffers from any perversity, illegality, or non-application of mind. That the revisionist's admission of his signatures on the



cheques and of having received the legal demand notice, coupled with his failure to lead any defence evidence, forecloses the very defence now sought to be revived, additionally, the revisionist's conduct before the Trial Court, resulting in issuance of non-bailable warrants to secure his presence, as well as his non-prosecution of the appeal, disentitles him to the exercise of discretion in his favour.

13. In ***State of Kerala v. Puttumana Illath Jathavedan Namboodiri***,² the Supreme Court, while setting aside a judgment of the High Court that had, in revision, interfered with a conviction affirmed in appeal, held as under:

“5. ... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an Appellate Court nor can it be treated even as a second Appellate Jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence had already been appreciated by the Magistrate as well as the Sessions Judge in appeal.”

14. The aforesaid principle was reiterated in ***Sanjaysinh Ramrao Chavan v. Dattatray Gulabrao Phalke***³ wherein it was held:

“14. ... Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with such order, merely because another view is possible.”

15. It is thus manifest that the revisional jurisdiction, being supervisory and not appellate in character, does not permit this Court to re-appreciate evidence or substitute its own view for that of the courts below merely

² (1999) 2 SCC 452.

³ (2015) 3 SCC 123.



because another view is possible. Interference is warranted only where the findings under challenge are shown to be perverse, based on no evidence, vitiated by non-consideration of material on record, or productive of a miscarriage of justice.

16. In the totality of the facts and circumstances of the case, this Court finds no perversity, illegality, or miscarriage of justice in the concurrent findings recorded by the Trial Court and the Appellate Court so as to warrant interference in the exercise of revisional jurisdiction. The impugned order dated 13.05.2025 passed in Criminal Appeal No. 2110/2024, affirming the judgment of conviction dated 02.11.2023 and the order on sentence dated 02.08.2024, does not suffer from any infirmity.

17. Accordingly, the instant revision petition, being devoid of merit, stands dismissed. The connected application, being CRL.M.(BAIL) 345/2026, also stands disposed of as infructuous.

18. Accordingly, the instant revision petition stands failed, and is hereby, dismissed.

PURUSHAINdra KUMAR KAURAV, J

SEPTEMBER 15, 2026

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