

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL REVISION APPLICATION NO. 53 OF 2014

Mr. Bipin Mathurdas Thakkar,
major of age, Indian National,
Proprietor of Ferro Impex,
Businessman, r/o Flat No. F-6,
Supreme Avenue, Near Maruti
Temple, Davorlim, Margao, Goa
through his next friend and wife Mrs.
Meena Bipin Thakkar, major of age,
Indian National, r/at the above Petitioner.
address.

Versus

1. Shri Samir alias Sameer Dessai,
son of Shri Ganaba Dessai, major of
age, Businessman, r/o Char Rasta,
Canacona, Goa.
2. State
Through the Public Prosecutor,
High Court, Panaji, Goa.
..... Respondents.

Mr. Deep Shirodkar, Advocate for the petitioner.

Mr. A. D. Bhobe, Advocate for respondent no.1.

Ms. M. Pinto, Additional Public Prosecutor for respondent no. 2.

CORAM : U. V. BAKRE, J.

Reserved on 28th January, 2015.

Pronounced on : 5th February, 2015.

J U D G M E N T :

Heard Mr. Shirodkar, learned Counsel for the petitioner and Mr.
Bhobe, learned Counsel for the respondent no.1. Parties submitted

that copies of relevant documents are on record. Hence records and proceedings from the lower Courts are not called for.

2. Rule. Rule made returnable forthwith. By consent, heard forthwith.

3. This revision application has been filed against the judgment and order dated 20/09/2014 passed by the learned Additional Sessions Judge, South Goa, Margao ('Appellate Court', for short) in Criminal Appeal No. 41 of 2014 and judgment and order dated 21/02/2014 passed by the learned Judicial Magistrate, First Class at Canacona ('J.M.F.C', for short) in Criminal Case No. 4/OA/NI/2012. The petitioner was the accused in the said criminal case whereas the respondent no.1 was the complainant. Parties shall hereinafter be referred to as per their status in the said criminal case.

4. The complainant had filed the complaint against the accused under Section 138 of the Negotiable Instruments Act, 1881('N.I. Act', for short). The case of the complainant was as follows:

The complainant and the accused were known to each other as they were businessmen by profession. The accused owed an amount of ₹ 25,00,000/- to the complainant which the accused had taken for business purpose. The accused, in this regard, had executed a demand promissory note dated 01.11.2011 before Notary Public

namely Advocate Shri Sachin S. Kolwalkar at Margao. As per the said demand promissory note, the accused was supposed to repay to the complainant the said amount of ₹ 25,00,000/- within a month. Towards repayment of the said amount the accused had issued a cheque bearing no. 701475 dated 05.12.2011 for the said amount of ₹ 25,00,000/-, drawn on the Syndicate Bank, Margao branch, Margao, Goa, in favour of the complainant. The complainant presented the said cheque for encashment with his bankers that is Syndicate Bank, Canacona branch, Nagorcem, Canacona. However, by letter dated 12.12.2011, the bank informed the complainant that the said cheque has been dishonoured with endorsement "opening balance insufficient". The complainant by legal notice dated 23.12.2011 addressed by registered post to the accused demanded the said cheque amount within 15 days from the receipt of of notice. The said notice was returned back with endorsement "unclaimed return to sender". Hence, the complaint.

5. After the substance of accusation was explained to the accused to which he pleaded not guilty and claimed to be tried, the complainant examined himself as PW1 and produced the relevant documents. The statement of the accused under Section 313 of Criminal Procedure Code was recorded. The accused examined Reese Mathews, Senior bank manager of Canara Bank, Canacona Branch as DW1, Shri U. B. Surendranath, Senior Manager of Syndicate Bank,

Margao as DW2 and himself as DW3.

6. Case of the accused was that the complainant had paid to him an amount of ₹ 15,00,000/- through bank transaction, in the month of April 2010, for trading in iron ore. It was further the case of the accused that there was oral commitment between him and the complainant that he would pay share of profit in respect of the said trade. It was the case of the accused that within an year of receiving the said amount, he repaid to the complainant an amount of ₹ 25,00,000/-: ₹ 15,00,000/- being principal amount and ₹ 10,00,000/- being the share in the profit. According to the accused he did not enter into any other transaction with the complainant. It is his case that the demand promissory note and the cheque dated 05/12/2011 were forcibly taken by the complainant from him.

7. Upon consideration of the entire evidence on record, the learned J.M.F.C. held that the complainant proved that the accused had issued the said cheque towards the discharge of legally enforceable debt. The J.M.F.C. held that the complainant proved his case beyond reasonable doubt. The accused was held guilty and was convicted of the offence punishable under Section 138 of the N.I. Act and was sentenced to undergo simple imprisonment for three months and to pay compensation of ₹ 30,00,000/- to the complainant, in default to undergo simple imprisonment for a period of six months.

8. Aggrieved by the judgment and order of the learned J.M.F.C., the accused filed Criminal Appeal No. 41 of 2014 before the Sessions Court at South Goa Margao. Vide the impugned judgment and order dated 20/09/2014, the Appellate Court dismissed the said appeal and maintained the judgment and order passed by the learned J.M.F.C.. The accused therefore has filed the present revision application.

9. Mr. Shirodkar, learned Counsel for the accused, submitted that in the year 2010 the complainant had borrowed only ₹ 15,00,000/- from the complainant and had agreed to pay ₹ 25,00,000/- namely ₹ 15,00,000/- towards principal amount and ₹ 10,00,000/- being the share in profit. He submitted that the said amount of ₹ 25,00,000/- was paid to the complainant in installments, the last being paid on 10/08/2011. He invited my attention to the cross-examination of PW1 where the payment of the said amount has been admitted. He also read out the evidence of DW1 and DW2. Learned Counsel submitted that there is no evidence on record to establish the capacity of the complainant to advance such an huge amount of ₹ 25,00,000/- to the accused. He urged that the demand promissory note and the cheque which were subject matter of the criminal case were taken forcibly from the accused. He submitted that insofar as the said amount of ₹ 25,00,000/-, is concerned, there is no mention of any earlier transaction either in the complaint or in the legal notice. He pointed out that no income tax returns have been filed in which the said

amount was mentioned. He submitted that even if the said amount was paid by the complainant to the accused, the said amount was unaccounted cash and that the provision of Section 138 of N.I. Act is not applicable to such amount. Learned Counsel submitted that the accused need not disprove the existence of consideration by way of direct evidence and the onus on the accused is not as heavy as that of the prosecution. He therefore urged that the petitioner was entitled to acquittal since he had rebutted the presumption arising out of section 139 of N.I. Act. Learned Counsel relied upon the following judgments:

- (i) *“Sanjay Mishra v/s. Kanishka Kapoor”* reported in 2009 All M.R. (Cri) 1080
- (ii) *“Ramdas Hanumant Palankar vs. N.D. Vernekar and another”* reported in [2008(2) Bom.C.R. (Cri.) 401],
- (iii) *“K. S. Panduranga Vs. State of Karnataka”* reported in [(2013) 3 SCC 721]
- (iv) Order dated 28/06/2013 in Criminal Misc. Application no. 233 of 2011 (*Ravindra Vassant Kenkre (since deceased) through LR's (I) Smt. Sharmila Ravindra Kenkre and another v/s. Mrs. Nutan Damodar Prabhu and another*),
- (v) *“M. S. Narayan Menon alias Mani Vs. State of Kerala & Anr”*, reported in [(2006) 6 SCC 39]
- (vi) *“Vinay Parulekar Vs. Shri Pramod Meshram”*, reported in [2008 (3) AIR Bom R 721]

10. On the other hand, Mr. Bhobe, learned Counsel for the complainant submitted that there were two transactions both in the year 2010. He submitted that since the first transaction was completed and payments were made, no mention of the same was made in the complaint or in the legal notice. He submitted that the admission of PW1 regarding the payment in installments of the said sum of ₹ 25,00,000/- was regarding the said first transaction. He pointed out that the last installment of the said first transaction was paid in August, 2011 whereas the demand promissory note was executed on 01/11/2011 and the cheque was issued on 05/12/2011 which cannot have any connection with the amounts earlier paid. He submitted that the defence of the accused that the demand promissory note and cheque were forcibly taken has no force at all. He pointed out that the notary public namely Advocate Shri Sachin S. Kolwalkar had not been examined. Insofar as the contention regarding unaccounted cash, is concerned, the learned Counsel relied upon the judgment of this Court in Criminal Appeal No. 6 of 2012 in the Case of *“Mr. Krishna P. Morajkar v/s. Mr. Joe Ferrao and another”*. He further submitted that the present is a revision application and no perversity or jurisdictional error has been shown with regard to the impugned judgment and order. He therefore submitted that the revision application deserves to be dismissed.

11. I have gone through the material on record and I have also

considered the arguments advanced by the learned Counsel for the parties as also the judgments relied upon by them.

12. There is no dispute that cheque dated 05/12/2011 has been signed by the accused. As has been held by the Apex Court in the case of *“Rangappa Vs. Sri Mohan”*, reported in [(2010) 11 SCC 441], there is an initial presumption which favours the complainant, which of course is in the nature of rebuttable presumption and it is open to the accused to raise a defence wherein the existence of a legally enforceable debt or liability can be contested. In the present case, in addition to the cheque, there is demand promissory note admittedly executed by the accused. There is no dispute that the said cheque was presented for encashment during its validity period and that the same was returned back unpaid with endorsement “Opening balance insufficient”. According to the complainant, he thereafter issued legal notice dated 23/12/2011 by registered post A.D. to the accused demanding the said amount of ₹ 25,00,000/- within 15 days from the receipt of the notice and further intimating that failure to do so will result in filing of criminal proceedings under Section 138 of the N.I. Act. According to the complainant, the said notice was returned by the postal authorities with endorsement “unclaimed return to the sender”. PW1 has produced on record copy of the said legal notice alongwith postal slip to prove that the same was duly posted. PW1 has also produced the unclaimed envelop containing the legal notice

alongwith A.D. Card. However, according to the accused he did not receive the said notice. PW1 in his cross-examination has admitted that nowhere on the envelop at Exhibit – 23 colly., it is written that the said envelop containing notice was unclaimed and to be returned to the sender. PW1 stated that he was informed by his advocate that the said envelope was returned back since it was unclaimed. Even if it is taken for granted that there is not endorsement made by the postal authorities on the envelope as “unclaimed, return to the sender”, then also, that is not sufficient to hold that the compliance of the provision of sending of notice was not done by the complainant. In the case of ***“M/s. Armstrong Builders and Developers V/s. Mr. Vishvanath Naik”***, reported in 2007(1) All MR 167, it has been held that when the sender has dispatched the notice by post with the correct address written on it then it can be deemed to have been served on the sender unless he proves that it was not really served and that he was not responsible for non-service. In his deposition the accused stated that he was in Cochin for one month as his father had expired on 13/12/2010 and that he returned back on 15/01/2011. But. the legal notice is dated 23/12/2011 which is after the accused returned back. Therefore the alleged absence of the accused had nothing to do with the receipt or non-receipt of the legal notice. The evidence on record reveals that the accused was intimated on 26/12/2011 and 04/01/2012. Therefore, as has been rightly held by the learned J.M.F.C., it should be deemed that the accused was duly served and

intimated about the legal notice under Section 138 of the N.I. Act. The accused ought to have claimed the said notice and ought to have given an appropriate reply denying his liability which he has not done. Adverse inference is bound to be drawn against the accused. There is no dispute that within the prescribed time, the complainant filed the complaint before the learned High Court.

13. There is an admission by PW1 (complainant), in his cross-examination, that he had received from the accused a sum of ₹ 5,00,000/- on 24/05/2010; ₹ 5,00,000/- on 13/12/2010; ₹ 3,00,000/- on 05/04/2011; ₹ 2,00,000/- on 16/04/2011; ₹ 3,00,000/- on 25/04/2011; ₹ 2,00,000/- on 28/04/2011; ₹ 3,00,000/- on 28/07/2011 and ₹ 2,00,000/- on 10/08/2011. The evidence of DW1 and DW2 also establishes the said payment. The complainant thus received an amount of ₹ 25,00,000/- during the period from May, 2010 to August, 2011. However, the said payment cannot have any connection with the cheque which is the subject matter of the present case. The accused had executed demand promissory note on 01/11/2011 which is admittedly signed by him wherein he promised to pay to the complainant a sum of ₹ 25,00,000/- alongwith 12% interest per annum within one month from 01/11/2011. This demand promissory note had been executed before the notary, Advocate Shri Sachin S. Kolwalkar. Thereafter, on 05/12/2011, the accused issued the cheque bearing no. 701475 for ₹ 25,00,000/- which is the subject matter of the

present case. Thus, the payment of ₹ 25,00,000/- made from May, 2010 till August 2011 has nothing to do with the subsequently issued cheque dated 05/11/2011, as has been stated by PW1. Since the said earlier transaction was complete, there was no need to make a mention of it in the complaint. The case of the accused, that the complainant pressurized him to sign the said promissory note by coming to his house along with some people and asked him to come to the notary's office to execute the said demand promissory note and to bring with him a cheque and that he signed the said promissory note and the disputed cheque, under pressure, is not acceptable at all since there is absolutely no reason for the accused to come under pressure to execute the said promissory note and the cheque. It is not the case of the accused that the complainant had threatened to kill him or his beloved family member/s or in any other manner had forcefully obtained the signature. According to the accused, he did not lodge any police complaint against the complainant or other persons who had forced him to sign the demand promissory note and who came to the notary public, by coming to his residence. Though according to the accused, he had told the notary Advocate Sachin S. Kolwalkar that he has been pressurized by the complainant to sign the promissory note and that inspite of the same, Advocate Sachin S. Kolwalkar drafted the promissory note and that he had refused to sign the promissory note twice, he has not examined the said notary Advocate Sachin S. Kolwalkar to establish the said facts. There is no

reason for a notary public to take signature of the accused when he has been pressurized by other persons to do so. Therefore, as has been rightly held by the learned J.M.F.C., it is not at all proved that the demand promissory note and cheque were taken forcibly from the accused.

14. Though it is the case of the accused that he had borrowed ₹ 15,00,000/- from the complainant and that he had already repaid the said principal amount of ₹ 15,00,000/- along with ₹ 10,00,000/- towards share in profit (total ₹ 25,00,000/-) by 10/08/2011 and that there was no other transaction with the complainant, however, it is pertinent to note that in his cross-examination, DW3, the accused, has specifically stated that during signing of the promissory note he was supposed to pay to the complainant some amount and with that respect he had signed the promissory note. The above is the voluntary statement of the accused which means that even after 10/08/2011, the accused was supposed to pay some amount to the complainant. That explains the amount of ₹ 25,00,000/- as promised to be paid by way of the said demand promissory note dated 01/11/2011 and the cheque dated 05/12/2015. The accused has miserably failed to rebut the presumption arising in favour of the complainant under section 139 of the N. I. Act.

15. In the case of *“Sanjay Mishra”* (supra), the learned Single Judge

of this Court has held that the provision of Section 138 of N.I. Act cannot be resorted to for recovery of an unaccounted amount. It has been held that a cheque issued in discharge of alleged liability of repaying “unaccounted” cash amount cannot be said to be a cheque issued in discharge of a legally enforceable debt or liability within the meaning of explanation of section 138 of the N.I. Act. The learned Single Judge in paragraph 7 of the judgment in the case supra has held thus :

“7. It is true that merely because amount advanced is not shown in Income Tax Return, in every case, one cannot jump to the conclusion that the presumption under section 139 of the said Act stands rebutted. There may be cases where a small amount less than a sum of Rs.20,000/- is advanced in cash by way of loan which may be repayable within few days or within few months. A complainant may not show the said amount in the Income Tax Return as it is repayable within few days or few months in the same financial year. In such a case the failure to show the amount in the Income Tax Return may not by itself amount to rebuttal of presumption under section 139 of the said Act. If in a given case the amount advanced by the complainant to the accused is a large amount and is not repayable within few months, the failure to disclose the amount in Income-Tax return or Books of Accounts of the complainant may be sufficient to rebut the presumption under section 139 of the said Act.”

16. In Criminal Misc. Application no. 233 of 2011 (**Ravindra Vassant**

Kenkre (since deceased) through LR's (I) Smt. Sharmila Ravindra Kenkre and another v/s. Mrs. Nutan Damodar Prabhu and another), this Court relied upon the judgment in the case of "*Sanjay Mishra*" (supra) and held that since the amount was not shown in the income tax returns, it cannot be said that there was legally enforceable debt or liability.

17. The observations in the case of "*Sanjay Mishra*" (supra), with regard to unaccounted cash, are based on the judgment of the Hon'ble Supreme Court in the case of "*Krishna janardhan Bhat Vs. Dattatraya G. Hegde*" reported in 2008 (4) SCC 54. In the case of "*Krishna janardhan Bhat*" (supra), it was held that the existence of legally enforceable debt was not a matter of presumption under Section 139 of the N.I. Act. However, the above observation in the Judgment in the case of "*Krishna janardhan Bhat*" (supra) has been overruled by a three judge Bench of the Supreme Court in the case of "*Rangappa*" (supra). In the said case of "*Krishna janardhan Bhat*" (supra), decided by two judge Bench of the Supreme Court, it was further held that advance of more than ₹ 20,000/- was to be made only by way of an account payee cheque. However, in the case of "*Rangappa*" (supra), decided by the three judge Bench of the Apex Court, an advance of ₹ 45,000/- was made in cash in spite of which the Hon'ble Supreme Court proceeded to uphold the conviction. Thus, the judgment in the case of "*Krishna janardhan Bhat*" (supra), with regard to the advance of cash amount of more than ₹ 20,000/- without

showing the same in income tax returns, has been impliedly overruled. Therefore, it cannot be said that merely because the amount advanced was not shown in the income tax returns, Section 138 of N.I. Act is not applicable.

18. Vide judgment dated 19/07/2013 passed In Criminal Appeal No. 6 of 2012 (*Mr. Krishna P. Morajkar V/s Mr. Joe Ferrao and another*), learned Single Judge of this Court has dealt with, in detail, the judgment in the case of "*Sanjay Mishra*" (supra). The learned Single Judge has observed thus:

"22. As already observed, since Krishna Janardhan Bhat (supra) does not lay down any proposition of law, judgments which follow Krishna Janardhan Bhat (supra) would have to be ignored. This leaves question of advance not being reflected in books of account. The learned Counsel for the respondent relied on judgment in Sanjay Mishra V/s. Kanishka Kapoor @ Nikki & anr. reported at 2009 (3) Bom.C.R. (Cri.) 157 = 2009 (4) Mah.L.J. 155 where the question of unaccounted money is considered. In this judgment too, a learned Single Judge of this Court copiously quoted from the judgment of Supreme court in Krishna Janardhan Bhat (supra) in paragraphs 9, 10 & 11. It need not be restated that since Krishna Janardhan Bhat (supra) was expressly overruled on the nature of presumption under Section 139 and impliedly on the question of cash advances, it remains a decision on facts of that case and so the observations in Sanjay Mishra

(supra) based on Krishna Janardhan Bhat (supra) may be safely excluded from consideration.

23. In Sanjay Mishra (supra) the Court had also noted in para 14 the observations of the Supreme Court in Dalmia Cement (Bharat) Ltd Vs. Galaxy Traders & Agencies Ltd & Ors. reported at (2001) 6 Supreme Court Cases 463 and, ultimately, refused leave for filing an appeal against acquittal, possibly principally on account of the following facts noted by the Court in paras 6,7 & 8 of the judgment.

'6. I have given careful consideration to the submissions. I have perused a copy of the complaint and notes of evidence. In the cross-examination, the applicant has categorically stated thus:

".... The entire amount was given in cash. The entire amount was my cash amount. The cash amount was kept at my Chembur's residence. At that time, it was unaccounted. I had not disclosed this amount to the Income Tax after giving the loan till date. There was no agreement for interest on the amount given." (Emphasis added)

The complaint was filed in the year 2005. The evidence of the applicant was recorded on 28th February 2006. The applicant admitted that the amount allegedly paid by him to the 1st respondent by way of loan was a cash amount kept at his residence and at that time it was an unaccounted amount. He categorically admitted

that till date (i.e. till 28th February 2006) he has not disclosed the amount to the Income Tax. According to the case of the complainant, he had advanced loan on 14th September 2004 which was repayable within 90 days. Thus, on 14th September 2004 the amount allegedly paid by him to the 1st respondent was stated to be an unaccounted amount which was kept at the residence of the applicant. Moreover, till February 2006, when the evidence was recorded, the said amount was not disclosed in the Income Tax Returns of the applicant. Thus it continued to be an unaccounted amount.

7. It is true that merely because amount advanced is not shown in Income Tax Return, in every case, one cannot jump to the conclusion that the presumption under section 139 of the said Act stands rebutted. There may be cases where a small amount less than a sum of Rs.20,000/- is advanced in cash by way of loan which may be repayable within few days or within few months. A complainant may not show the said amount in the Income Tax Return as it is repayable within few days or few months in the same financial year. In such a case the failure to show the amount in the Income Tax Return may not by itself amount to rebuttal of presumption under section 139 of the said Act. If in a given case the amount advanced by the complainant to the accused is a large amount and is not repayable within few months, the failure to disclose the amount in Income-Tax

return or Books of Accounts of the complainant may be sufficient to rebut the presumption under section 139 of the said Act.

8. In the present case, the amount was allegedly advanced in September 2004. The amount is a large amount of Rs.15 lacs. This is a case where not only that there is a failure to disclose the amount of loan in the Income Tax Return of the applicant till the year 2006 but there is a categorical admission on the part of the applicant that the amount was an "unaccounted" amount." (emphasis supplied).'

*24. It may be seen that even in **Sanjay Mishra** (supra) failure to show the advances in income tax returns is not held to be always fatal. While observing that small amounts of less than Rs.20,000/- could be so advanced, the Court was obviously influenced by observations in **Krishna Janardhan Bhat** (supra) and provisions of Sections 269SS and 271D of Income Tax Act, which as already pointed out, require a borrower to receive amount in excess of Rs.20,000/- only by cheques. In the case at hand, the amount was advanced in the last week of March, 2006 and was to be repaid by 30/09/2006 i.e. within 6 months. Thus, even observations in **Sanjay Mishra** (supra) (minus the ceiling of Rs.20,000/- which has no legal sanctity), would not make the appellant's case untenable."*

19. The learned Single Judge in Criminal Appeal No. 6 of 2012 has

observed that there is no provision of Income Tax Act, which makes an amount not shown in the income tax returns unrecoverable. It has been observed that if some amounts are not accounted for, the person would be visited with the penalty or at times even prosecution under the Income Tax Act, but it does not mean that the borrower can refuse to pay the amount which he has borrowed simply, because there is some infraction of the provisions of the Income Tax Act. It is further observed that infraction of provisions of Income Tax Act would be a matter between the revenue and the defaulter and advantage thereof cannot be taken by the borrower. It has been held that to say that an amount not disclosed in the income tax returns becomes irrecoverable would itself defeat the provisions of Section 138 of the N. I. Act. The learned Single Judge has respectfully disagreed with the observations made in the case of "*Sanjay Mishra* " (supra). No doubt, the above judgment dated 19/07/2013, passed in Criminal Appeal No. 6 of 2013, has been set aside by the Hon'ble Supreme Court, in Criminal Appeal No. 614-615 of 2014. But the setting aside was because the appellant (accused) had already paid the sum of ₹ 4,00,000/- in favour of the complainant. The findings of the learned Single Judge in said Criminal Appeal No. 6 of 2013 have not been set aside. I am in respectful agreement with the observations made by the learned Single Judge (R. C. Chavan, J) in Criminal Appeal No. 6 of 2012. I am of the view that the provision of Section 138 of the N.I. Act does apply to the present transaction.

20. In the case of “*Ramdas Hanumant Palankar*” (supra), it was found that the complainant did not have the capacity to advance loan of ₹ 2,00,000/- in cash at the relevant time. No returns of income tax, sales tax book of accounts were produced to show that he had capacity to advance the amount of ₹ 2,00,000/- in cash. On account of the above, it was held that the accused had discharged the burden of rebutting the presumption. In the present case, there is an admission that the complainant had paid to the accused an amount of ₹ 15,00,000/- sometime in April, 2010. The evidence on record proves that the payment of said amount was an earlier transaction. However, that shows that the complainant had capacity to pay huge amounts to the accused. Besides the above, there is evidence by way of demand promissory note.

21. In the cases of “*M. S. Narayan Menon alias Mani* “ and “*Vinay Parulekar*” (supra), the Apex Court has explained as to how the presumptions under the Evidence Act as also under the N.I. Act could be rebutted and the concept of standard of proof, in cases under Section 138 of the N.I.Act. There can be no dispute about the propositions laid down in the above cases and I have duly considered the same.

22. In view of the above, no perversity or jurisdictional error has been shown with regard to the impugned judgment and order. The

Judgment dated 21/02/2014 in Criminal Case No. 4/OA/NI/2012 and the Judgment and order dated 29/02/2014 in Criminal Appeal No. 41 of 2014 are in accordance with law and there is no scope for interference with the same. There is no merit in the present revision application which deserves to be dismissed.

23. In the result, the Revision Application is dismissed. Rule stands discharged. The accused shall surrender before the learned J.M.F.C., to undergo sentence imposed upon him, within a period of six weeks from today.

U. V. Bakre,J.

MV