**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR-2525-2024 (O&M)
Date of Decision:10.07.2025**

Sunil Kumar ...Petitioner
Versus
State of Haryana and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Vikas Bishnoi, Advocate,
for the petitioner.

Mr. Rupinder Singh Jhand, Addl. A.G., Haryana.

Mr. Mohit Jasuja, Advocate for
Mr. Amit Choudhary, Advocate, for respondent No. 2.

N.S.SHEKHAWAT, J.

1. The petitioner has filed the present revision petition against the impugned judgment dated 03.12.2024 passed by the Court of Additional Sessions Judge, Fatehabad and the judgment of conviction dated 18.03.2019 and order of sentence dated 19.03.2019 passed by the Court of Chief Judicial Magistrate, Fatehabad, whereby, the petitioner was convicted under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') and was sentenced to undergo simple imprisonment for a period of one year

and to pay a fine amounting to twice the amount of cheque, i.e., Rs. 19,90,000/- as compensation.

2. The brief facts of the case are that the respondent had filed a complaint under Section 138 of the Act against the petitioner with the allegations that the petitioner had borrowed a sum of Rs. 9.95 lakhs from the respondent for his personal needs and in order to discharge his liability, he had issued a cheque No. 348164 dated 13.01.2016 in favour of the respondent/complainant amounting to Rs.9,95,000/-. He had assured the respondent that on presentation of the cheque, in the bank, it will be honoured and the amount shall be paid by the bank to the respondent. When the respondent presented the cheque for payment in the bank, the cheque was dishonoured with the remarks "funds insufficient" vide return memo dated 27.01.2016. The respondent issued a legal notice dated 29.01.2016 through his counsel, calling upon the petitioner to make the payment and Rs. 9.95 lakhs to the respondent within a period of 15 days of the receipt of the notice. However, even after the receipt of the notice, the petitioner neither submitted any reply to the legal notice nor made any payment. Since, the petitioner had failed to make the payment, the respondent filed a complaint under Section 138 of the Act against him before the trial Court.

3. After the preliminary evidence, the petitioner was summoned to face the trial for commission of the offence under

Section 138 of the Act. Ultimately, after his appearance, notice of accusation was served on him for commission of the offence under Section 138 of the Act. However, the petitioner pleaded not guilty and claimed trial.

4. During the course of trial, the respondent appeared as CW1 and tendered his affidavit Ex.CW1/A in his evidence and the evidence was closed thereafter. However, the respondent also exhibited the original cheque as Ex.C1, return memo as Ex.C2, legal notice Ex.C3 and the postal receipt Ex.C4.

5. After the closer of the prosecution evidence, incriminating evidence led by the respondent/complainant was put to the petitioner, however, he simply stated that he had been falsely implicated in the present case. In defence, the petitioner chose to lead no evidence and the same was closed.

6. Learned counsel for the petitioner submits that the Courts had misread and misconstrued the evidence in the present case and wrongly convicted him. In fact, the family of the petitioner is very poor and in fact the respondent had failed to prove that there was any legal liability towards the petitioner and the cheque in question was issued in discharge of the legal liability. Still further, the neither the date of advancement of loan had been mentioned nor any other witness was examined to corroborate the testimony of the respondent in the present case.

7. On the other hand, learned counsel for respondent submitted that once the issuance of cheque and signatures thereon are admitted, the presumption of legally enforceable debt in favour of the holder of the cheque arises. In fact, once the basic ingredients of the offence had been proved by the respondent, the onus had shifted on the petitioner to rebut the said presumption. Even, the mere statement of the respondent was not sufficient to rebut the said presumption.

8. I have heard learned counsel for the parties and perused the record.

9. In the present case, there is no dispute that the petitioner had signed the cheque and he had only challenged the findings that the cheque was issued in discharge of liability by the petitioner. However, the law is well settled that once the cheque had been issued by the petitioner and he admits his signatures thereon, a statutory presumption would arise in favour of the complainant. Even, there is no dispute with regard to the issuance of cheque by the petitioner and the signatures of the petitioner on the same. Thus, the presumption of a legally enforceable debt had arisen in favour of the respondent. Even, the simple statement of the respondent was not sufficient to rebut the presumption against him.

10. Still further, I have carefully perused the findings recorded by the trial Court as well as appellate Court and find that there is no material irregularity or illegality in both the impugned

judgments. Both the Courts have correctly appreciated the evidence in the case, in the light of the settled canons of law and I find no reasons to deviate from the findings recorded by the Courts. Thus, finding no merits, the petition is ordered to be dismissed.

11. All pending applications, if any, are disposed off, accordingly.

12. Records of the Courts below be sent back.

10.07.2025 **(N.S.SHEKHAWAT)**
amit rana **JUDGE**

Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No