2025:UHC:9581

Reserved on : 13.10.2025

Delivered on : 30.10.2025

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

CRIMINAL REVISION NO. 322 OF 2025

Mahant Yogi Laxmi .....Revisionist

Vs.

Gyanendra Singh Bisht …..Respondent

Presence:

Mr. Pawan Mishra, learned counsel for the Revisionist.

Mr. S. K. Mandal, learned counsel for the Respondent.

Hon'ble Ashish Naithani, J

1. The present Criminal Revision No. 322 of 2025 has been filed by Mahant Yogi Laxmi, Revisionist, assailing the judgment and order dated 27.05.2025 passed by the learned Sessions Judge, Uttarkashi, in *Criminal Appeal No. 21 of 2023 (Mahant Yogi Laxmi v. Gyanendra Singh Bisht)*, whereby the appeal filed by the Revisionist was dismissed and the judgment and order dated 22.05.2023 passed by the Judicial Magistrate, First Class, Barkot/Purola, District Uttarkashi in *Complaint Case No. 01 of 2020* was affirmed.

2. By the said order, the Revisionist was convicted under Section 138 of the Negotiable Instruments Act, 1881, and sentenced to one year's simple imprisonment and to pay a fine of ₹5,08,000, of which ₹5,03,000 was directed to be paid to the complainant as compensation. The learned Sessions Court, after evaluating the record and evidence, upheld both the conviction and sentence.

3. The factual matrix of the present case is that the complainant, Gyanendra Singh Bisht, alleged that the accused–Revisionist, Mahant Yogi

Laxmi, had borrowed ₹4,00,000 in cash on 27.09.2016 for personal needs. In discharge of the said liability, the accused issued two cheques drawn on his account with the Oriental Bank of Commerce, EC Road Branch, Dehradun —

a. Cheque No. 087910 dated 02.11.2019 for ₹3,50,000, and
b. Cheque No. 087911 dated 02.11.2019 for ₹50,000.

4. Both cheques were presented by the complainant through his banker, Punjab National Bank, Barkot Branch, but were dishonoured on 13.11.2019 with the remark “Payment stopped by drawer.”

5. The complainant, through learned counsel, issued a legal notice dated 29.11.2019, demanding payment within fifteen days. The notice was dispatched through registered post but was returned with the postal endorsement “refused by addressee.” No reply was submitted, nor was the payment made by the accused.

6. On these facts, the complainant instituted Complaint Case No. 01 of 2020 under Section 138 of the Negotiable Instruments Act, 1881. Upon being summoned, the accused appeared before the learned Magistrate and pleaded that his cheque book had been lost on 01.10.2019, in respect of which he had allegedly informed the Superintendent of Police, Uttarkashi, and his banker.

7. During the trial, the complainant examined himself as CW-1 and produced the original cheques, dishonour memos, postal receipts, and tracking reports. The accused examined himself (DW-1) and one Virendra Khanduri (DW-2), his driver, to support the claim of lost cheques. However, the trial court found significant contradictions between the testimonies of the accused and his witness regarding the date, location, and vehicle involved in the alleged loss.

8. Upon appreciation of the evidence on record, the learned Magistrate held that the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act, 1881, stood unrebutted. The defence version was found to be improbable, inconsistent, and unsupported by cogent material. Consequently, the accused was convicted and sentenced as aforesaid.

9. The appellate court, upon re-appreciation of the entire evidence, concurred with the findings of the trial court and held that there was neither perversity nor legal infirmity in the conclusion drawn. It was observed that the cheques had been issued towards a legally enforceable debt, that the statutory notice had been duly dispatched and refused by the accused, and that the presumptions under the Act remained un-rebutted.

10. Heard learned counsel for the parties and perused the records.

11. Learned counsel for the Revisionist, Mr. Pawan Mishra, submitted that both the courts below erred in appreciating the evidence and in failing to consider material contradictions which went to the root of the case.

12. It was contended that the Revisionist had never issued the cheques in question in discharge of any legally enforceable liability. The cheque book containing the said cheques was stated to have been lost on 01.10.2019, for which intimation was duly given to the Superintendent of Police, Uttarkashi, and to the bank concerned, prior to the date of presentation. Despite this, the Respondent and his relatives allegedly misused those lost cheques, resulting in three separate complaints being filed at different places. Learned counsel argued that such multiplicity of proceedings clearly revealed a mala fide intent and deliberate misuse of the lost instruments.

13. Learned counsel for the Revisionist further submitted that the complainant–Respondent failed to prove the existence of any legally enforceable debt or liability. It was contended that no document, agreement, receipt, or independent witness was produced to establish that a sum of ₹4,00,000 had ever been advanced to the Revisionist. Learned counsel argued that the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act, 1881 stood effectively rebutted by cogent defence evidence.

14. In support thereof, the Revisionist examined himself and produced his driver, Virendra Khanduri (DW–2), who corroborated the alleged loss of the cheque book. Despite this, both the learned Trial Court and the Appellate Court, without recording any specific finding on the issue of rebuttal, proceeded to convict the Revisionist solely on the strength of presumptions.

15. Learned counsel submitted that in a similar complaint filed by one Manveer Singh Bisht, relating to another cheque from the same lost cheque book, the Appellate Court had acquitted the Revisionist, accepting his defence as genuine. It was argued that the present conviction, resting on identical facts, is inconsistent with the earlier finding and therefore unsustainable. It was further contended that the complaint was filed against two persons, namely (i) Mahant Yogi Laxmi in his personal capacity, and (ii) Mahant Yogi Laxmi as President of the Bhagwan Jagannath Mandir Seva Samiti.

16. It was submitted that Mahant Yogi Laxmi had thus been arrayed as an accused in two distinct capacities, first, in his personal capacity, and second, as President of the Bhagwan Jagannath Mandir Seva Samiti, which is the governing body responsible for the management and service activities of the temple. It was further pointed out that the appeal had been preferred only by the first accused in his individual capacity.

17. Since no appeal had been filed by the Samiti, the judgment had attained finality as against the institution. Learned counsel contended that the continuation of proceedings in such circumstances suffered from a jurisdictional irregularity and was not maintainable in its present form. A prayer was, therefore, made to set aside the conviction and sentence, and to stay the realization of fine or compensation imposed during the pendency of the present revision.

18. Per contra, learned counsel for the Respondent, Mr. S.K. Mandal, opposed the revision and supported the concurrent findings of the courts below. It was submitted that the conviction was based upon sound evidence and proper appreciation of the material on record. The original cheques, bank return memos, legal notice, postal receipts, and acknowledgment reports were duly proved by the complainant, thereby fulfilling the statutory ingredients of Section 138 of the Negotiable Instruments Act.

19. Both the courts below, upon independent scrutiny, found that the cheques were issued towards the discharge of a subsisting liability, were dishonoured for the reason “payment stopped by drawer,” and that statutory notice had been duly served. It was therefore argued that these concurrent findings of fact are not liable to be interfered with in revisional jurisdiction.

20. Learned counsel for the Respondent further submitted that the plea of loss of cheques was an afterthought, unsupported by any authentic contemporaneous record or bank acknowledgment. It was contended that the Revisionist had failed to prove either the alleged loss or the lodging of any credible complaint in that regard. The testimony of DW–2, on which the defence relied, was stated to be contradictory and unreliable. Learned counsel also pointed out that the complaint had been instituted against both the individual and the Samiti, and since the appeal had been preferred only by

one of them, namely Mahant Yogi Laxmi in his personal capacity, the conviction as against the Samiti had attained finality.

21. At this juncture, this Court finds that the central question for determination is whether the concurrent findings recorded by the courts below suffer from any illegality or perversity warranting interference in revisional jurisdiction.

22. The further issue arises as to whether proceedings under Section 138 of the Negotiable Instruments Act, 1881, could be sustained against the Revisionist in his capacity as trustee or president of a religious trust, without impleading the trust itself as an accused.

23. It is settled that revisional jurisdiction is limited and does not permit re-appreciation of evidence except where the findings are manifestly unreasonable or based on a clear misreading of material on record. Interference is justified only in cases of procedural irregularity or gross miscarriage of justice.

24. From the record, it is evident that the complainant duly proved all foundational facts to attract the presumption under Sections 118 and 139 of the Act. The cheques in question were drawn on the account of the Revisionist, presented within time, and dishonoured with the endorsement “payment stopped by drawer.” The statutory notice was also proved to have been issued within the prescribed period. Once these ingredients were established, the burden shifted to the accused to rebut the presumption by showing a probable defence.

25. The Revisionist asserted that his cheque book had been lost and that the cheques were subsequently misused. However, the evidence adduced in support of this plea was inconsistent and lacking in credibility. The alleged date and place of loss were narrated differently by the Revisionist and his

witness. No acknowledgment from either the police or the bank was produced to substantiate the claim of prior intimation. The letter purportedly addressed to the Superintendent of Police bore no proof of dispatch or diary entry. The courts below, therefore, rightly held that the defence was neither probable nor convincing.

26. The presumption under Section 139 of the Negotiable Instruments Act, 1881 cannot be displaced by mere denial or by assertions unsupported by substantive evidence. In the present case, the defence rested solely on oral statements, uncorroborated by any contemporaneous record lending them authenticity. The statutory presumption, therefore, remained un-rebutted.

27. As to the contention that the complaint was not maintainable without impleading the trust, it may be observed that a trust, unlike a company or society, functions through its trustees, who are answerable for acts done on its behalf. The cheques having been signed by the Revisionist himself, the proceedings against him were maintainable in law. The plea of defect of parties was, therefore, rightly rejected.

28. The argument that the present case stood on parity with another complaint in which the Revisionist was acquitted also holds no substance. Each cheque transaction gives rise to a distinct cause of action. Unless identical evidence and circumstances are shown, the result of another complaint cannot govern the present case.

29. The record further indicates that both the Trial Court and the Appellate Court duly considered the defence evidence and recorded reasoned findings, noting material inconsistencies and absence of corroborative proof.

30. This Court thus finds no perversity, illegality, or error apparent on the record in the concurrent findings of the courts below that would warrant interference in the exercise of revisional jurisdiction.

31. In view of the foregoing discussion, this Court is satisfied that the complainant successfully established all essential ingredients of the offence under Section 138 of the Negotiable Instruments Act, 1881, and that the findings of guilt are based on proper appreciation of facts and evidence.

ORDER

In light of the above findings, this Court finds no infirmity or perversity in the judgments under challenge. The complainant has duly proved the ingredients of the offence under Section 138 of the Negotiable Instruments Act, 1881, whereas the Revisionist failed to rebut the statutory presumption or to establish any credible defence.

Accordingly, Criminal Revision No. 322 of 2025 is **dismissed**. The judgment and order dated 27.05.2025 passed by the learned Sessions Judge, Uttarkashi, in Criminal Appeal No. 21 of 2023, affirming the judgment and order dated 22.05.2023 of the learned Judicial Magistrate, First Class, Barkot/Purola, District Uttarkashi, in Complaint Case No. 01 of 2020, convicting the Revisionist under Section 138 of the Negotiable Instruments Act, 1881, are hereby upheld.

Interim orders, if any, stand vacated.

No order as to costs.

(Ashish Naithani, J.)

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