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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P.(NI) 54/2025, CRL.M.A. 5735/2025 & CRL.M.(BAIL) 380/2025**

ASHIM KUMAR SEN GUPTAPetitioner
Through: Mr. Piyush Chhabra, Ms.
Riya Srivastava & Ms. K.
Bhargava, Advs.

versus

STATE GOVT. OF NCT OF
DELHI AND ANR.Respondents
Through: Mr. Raj Kumar, APP for
the State
Mr. Manjit Singh
Chauhan, Adv. for R2

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
26.09.2025

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1. The present petition is filed by the petitioner challenging the judgment dated 17.01.2025 (hereafter '**the impugned judgment**') passed by the learned Additional Sessions Judge ('ASJ'), Dwarka Courts, New Delhi in CA No. 1971/2024.
 2. By the impugned judgment the learned ASJ dismissed the appeal filed by the petitioner and upheld the judgment of conviction dated 21.03.2024 and order on sentence dated 06.05.2024 passed by the learned Trial Court in CT. Case No. 15005/2019.
 3. By judgment on conviction dated 21.03.2024, the learned Trial Court convicted the petitioner for the offence under Section 138 of the Negotiable Instruments Act, 1881 ('**NI Act**'). By the order on sentence dated 06.05.2024, the learned Trial Court



sentenced the petitioner to undergo simple imprisonment for a period of 3 months and to pay a fine of ₹7,50,000/- as compensation, and in default of payment of fine, to undergo further simple imprisonment for 15 days.

4. Dismissal of the appeal against the orders passed by the learned Trial Court led to filing of the present petition.

5. Briefly stated, Respondent No. 2 on 14.02.2014 had advanced a friendly loan to the petitioner for a sum of ₹5,00,000/- for a period of one year.

6. It is alleged that the petitioner assured Respondent No. 2 that the said loan will be repaid by the petitioner within a period of one year with interest as agreed between the parties.

7. It is alleged that on 16.02.2015, the petitioner issued a cheque bearing No. 140588 for a sum of ₹5,00,000/- in favour of Respondent No. 2. However, after negotiating the petitioner asked Respondent No. 2 to discard the earlier given cheque, whereafter, the petitioner issued a fresh cheque bearing No. 070428 dated 16.02.2016 for a sum of ₹5,00,000/- in favour of Respondent No. 2.

8. It is alleged that after presentation of the said cheque by Respondent No. 2, the same was returned *vide* return memo dated 23.02.2016 with remarks "*Funds Insufficient*".

9. Respondent No. 2, thereafter on 17.03.2016, issued a statutory legal demand notice dated 17.03.2016 to the petitioner, demanding the payment of the aforesaid amount, and upon his failure to do so, Respondent No. 2 filed the subject complaint before the learned Trial Court.

10. As noted above, the learned Trial Court by the judgment of conviction dated 21.03.2024 convicted the petitioner for the



offence under Section 138 of the NI Act and the appeal against the said order was dismissed by the learned ASJ by the impugned judgment.

11. The learned counsel for the petitioner, at the outset, submits that he is not challenging the conviction of the petitioner. He submits that he would be satisfied if the period of imprisonment awarded to the petitioner by order on sentence dated 06.05.2024 can be commuted to the period already undergone.

12. He submits that the petitioner is in custody since 03.09.2025 and is a senior citizen aged 70. He submits considering his age, a lenient view may be taken.

13. The Hon'ble Apex Court in the case of **Damodar S. Prabhu v. Sayed Babalal H. : (2010) 5 SCC 663** had highlighted that the compensatory aspect of the proceedings under the NI Act take precedence over the punitive aspect in regard to the offences under the NI Act. The relevant portion of the judgment is reproduced hereunder:

“4... What must be remembered is that the dishonour of a cheque can be best described as a regulatory offence that has been created to serve the public interest in ensuring the reliability of these instruments. The impact of this offence is usually confined to the private parties involved in commercial transactions.

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18. It is quite obvious that with respect to the offence of dishonour of cheques, it is the compensatory aspect of the remedy which should be given priority over the punitive aspect. There is also some support for the apprehensions raised by the learned Attorney General that a majority of cheque bounce cases are indeed being compromised or settled by way of compounding, albeit during the later stages of litigation thereby contributing to undue delay in justice delivery. The problem herein is with the tendency of litigants to belatedly choose compounding as a means to resolve their dispute...



14. In view of the above, considering the limited prayer and the age of the petitioner, the impugned judgment of conviction dated 21.03.02024 is upheld and the order on sentence dated 06.05.2024 is modified to the extent that the petitioner is sentenced to the period already undergone and payment of fine of ₹7,50,000/- as compensation to the complainant.

15. The petitioner is directed to be released from custody forthwith on the strength of the present order.

16. In view of the above, the present petition is disposed of. Pending application(s), if any, also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 26, 2025

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