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

\+ CRL.REV.P.(NI) 289/2025 & CRL.M.A. 37656/2025, CRL.M.(BAIL) 2495/2025

VINOD @ VINOD KUMAR .....Petitioner

Through: Mr. Abhay Kumar, Mr. Praphul E. Jha and Mr. Vijay P., Advocates.

versus

TEJPAL .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **17.12.2025**

1. This revision petition under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is directed against the appellate judgment dated 11th November, 2025. By this impugned judgment, conviction order dated 19th April, 2024 and the order on sentence dated 22nd May, 2024, passed by the Court of MM (NI Act)-07 (South), Saket Courts, New Delhi in CT Case No. 16907/2019 titled "***Tejpal v. Vinod***", have been affirmed. As a result, the Petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881[1] and has been directed to pay a fine of INR 15,00,000/-, as compensation to the complainant. In default, the Petitioner is to undergo simple imprisonment for three months.

2. The facts, as emerging from the record, as follows:

[1] "NI Act"

2.1. The complainant (Respondent) stated that he and the accused (Petitioner) hail from the same village and have known each other for several years. He claimed that the Petitioner had, on earlier occasions, borrowed small amounts and returned them, thereby earning his confidence. He further stated that in February, 2016 he sold a parcel of land and received sale consideration of INR 16,75,000/- in his bank account. He withdrew INR 10,00,000/- on 17th March, 2016 and handed over the amount to the Petitioner in the presence of his family members, on an assurance that it would be repaid on or before September, 2016.

2.2. The complainant further alleged that the Petitioner did not repay the amount and kept offering excuses on one pretext or the other. He grew suspicious and asked the Petitioner to give a written undertaking acknowledging receipt of the money, in the presence of common family relatives. Pursuant thereto, the parties executed a General Agreement dated 15th September, 2016 and a separate receipt, recording that the Petitioner had received INR 10,00,000/- from the complainant. In the said agreement, the Petitioner specifically acknowledged that he took personal loan of INR 10,00,000/- from the Respondents which was to be paid back by 17th March, 2017.

2.3. The Petitioner issued a cheque in his favour for an amount of INR 10,00,000/- with an undertaking that it would be honoured on presentation. However, the cheque was returned unpaid with the remark "insufficient funds", constraining the complainant to initiate proceedings under Section 138 NI Act.

2.4. On service of summons, the Petitioner appeared before the Trial Court and notice under Section 251 CrPC was framed, to which he pleaded not guilty. At that stage, he stated that he had taken an amount of INR 50,000/- on 27th January, 2016 from the complainant for two months, and that he had given a blank signed cheque to the complainant as security. He stated that he had agreed to return INR 75,000/- to the complainant in March, 2016 towards the loan amount. He further stated that on 23rd February, 2016 and 24th February, 2016, he paid an amount of INR 5,000/- (out of which INR 4,000/- was paid in cash and INR 1,000/- was transferred from his account) to the complainant and paid the remaining INR 70,000/- in March, 2016. After making the payments, when he requested the complainant to return the security cheque, the complainant refused, stating that it was lying somewhere in the house.

2.5. During admission and denial under Section 294 CrPC, Petitioner admitted that the cheque in question bears his signature, but he had not filled the particulars in the cheque. He stated that he had not received any legal notice. He further stated that he received court summons at the second address mentioned in the memo of parties, where he was temporarily residing as a tenant.

2.6. The complainant led evidence and relied upon the sale transaction documents Ex. CW-1/A, the bank statement Ex. CW-1/B, the General Agreement Ex. CW-1/C (colly.), the cheque in question Ex. CW-1/D, the return memo Ex. CW-1/E, the office copy of the legal notice Ex. CW-1/F, postal receipts Ex. CW-1/G, the certificate under Section 65B of the Indian Evidence Act Ex. CW-1/H (colly.), and the returned envelopes Ex. CW-1/I (colly.). The complainant was cross-examined.

2.7. After conclusion of the complainant's evidence, the Petitioner's statement under Section 313 CrPC was recorded. He reiterated that he had borrowed only INR 50,000/- from the complainant and that the cheque in question was issued as security. He continued to deny receipt of the legal notice and asserted that the cheque had been misused. He stated that on 23rd February, 2016, he paid INR 4,000/- in cash and INR 1,000/- through account transfer, and that on 29th March, 2016 he paid the remaining INR 70,000/- in cash. The Petitioner, however, did not lead any defence evidence.

3. Counsel for the Petitioner assails the concurrent findings of conviction and sentence, contending that the presumptions under Sections 118 and 139 of the NI Act stood rebutted on a preponderance of probabilities through the complainant's own cross-examination. It is urged that the courts below overlooked material contradictions and returned findings based on conjecture. Its submissions, in essence, are as follows:

3.1. The complainant resiled from the version pleaded in the complaint and evidence affidavit. His cross-examination discloses material inconsistencies sufficient to undermine the prosecution case and rebut the statutory presumptions.

3.2. There are internal inconsistencies about when and how INR 10,00,000/- was advanced. Complainant asserts withdrawal of INR 10,00,000/- on 17th March, 2016, yet in cross-examination he admits that INR 10,00,000/- was given on 17th February, 2016 at his residence. It is further urged that the complainant also stated at one stage that the amount was given through cheque, which contradicts the pleaded case of cash payment.

3.3. The complainant has taken shifting stands on who was present when the loan was allegedly advanced. In one version the amount is stated to have been handed over in the presence of the complainant's elder brother and son, while elsewhere names such as Satish and Jagdish are mentioned. These inconsistencies are material and rebut the presumptions.

3.4. The complainant admitted that no agreement was executed on the date the money was allegedly handed over. He did not even state the denomination of currency notes said to have been paid.

3.5. The complainant's knowledge of the General Agreement Ex. CW-1/C is questionable. His responses in cross-examination reveal that he was unsure about who purchased the stamp paper, where the document was typed, and stated that it was typed by his children, who were not examined. It is further urged that the complaint did not state that Ex. CW-1/C was executed in the presence of nephews/sons of his elder brother, while the affidavit suggests execution in the presence of "common family members".

3.6. During trial, the complainant gave inconsistent answers on whether the cheque was already dated and filled when handed over. It is urged that the complainant first stated that the cheque was "dated and written" when received, yet also stated that he did not know who filled the remaining particulars, which is urged as self-contradictory.

3.7. The Petitioner maintains that he had borrowed only INR 50,000/- on 27^{th} January, 2016 for two months and had issued a blank signed cheque as security. The agreed repayment was INR 75,000/- (principal plus interest), of which INR 5,000/- was paid on $23^{rd}/24^{th}$ February, 2016 (partly by transfer and partly in cash) and INR 70,000/- was paid in cash on 29^{th} March, 2016. It is urged that despite repayment the complainant retained the security cheque and misused it.

3.8. The advancement of INR 10,00,000/- in cash is itself contrary to law and banking norms, and that the courts below failed to consider this aspect while accepting the complainant's version.

3.9. At the stage of notice under Section 251 CrPC and the statement of the accused, certain questions were not put, and the Petitioner cannot be prejudiced on that account.

4. The Court has considered the rival submissions and has perused the record, including the judgments of the Trial Court and the Appellate Court. At the outset, it bears emphasis that the Petitioner has invoked revisional jurisdiction against concurrent findings of conviction and sentence, affirmed in appeal. The jurisdiction in revision is supervisory, not appellate where the Court can re-weigh evidence or to substitute a different view merely because another view is possible. Interference is warranted where the impugned findings disclose a patent illegality, perversity, a material irregularity affecting the decision, or a miscarriage of justice.[2] Where two courts have concurrently appreciated the evidence and recorded consistent conclusions, the threshold becomes higher, and the revisional court must proceed with restraint.

5. Tested on that touchstone, the challenge does not cross the line. The foundational facts that set the statutory presumptions in motion are not in serious dispute. The Petitioner admitted his signature on the cheque. Once the issuance and execution of the cheque is admitted, the presumptions under Sections 118(a) and 139 of the NI Act operate in favour of the holder that the cheque was issued for consideration and in discharge of a legally enforceable debt or liability. The presumption is rebuttable, but the burden

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[2] ***Bir Singh vs. Mukesh Kumar*** (2019) 4 SCC 197; ***Sanjabij Tari v. Kishore S. Borcar & Anr.*** 2025 INSC 1158.

shifts to the drawer to raise a probable defence on a preponderance of probabilities, either by leading defence evidence or by eliciting admissions and circumstances from the complainant's cross-examination that render the complainant's version improbable.

6. The defence set up by the Petitioner was that he had borrowed only INR 50,000/-, issued a blank signed cheque as security, repaid INR 75,000/- (principal plus interest), and that the cheque was not returned and was later misused. In a Section 138 prosecution, such a defence is permissible, but it has to be made credible. The difficulty for the Petitioner is that both courts have found, on reasons, that the defence remained a bare assertion. There is no contemporaneous material of the alleged INR 50,000/- transaction, no receipt, no writing, no witness, and no credible explanation why a borrower would repay a substantially enhanced amount as "interest" without securing return of the security cheque. The Petitioner also did not take the elementary steps one would normally expect if a signed cheque had been wrongfully retained, such as issuing written demands for return, lodging a complaint, or giving stop-payment instructions. The return memo records "funds insufficient", not "stop payment". That circumstance does not, by itself, decide the case, but it is a relevant piece of conduct that the courts below were entitled to weigh while assessing the probability of the "misuse" narrative.

7. The Petitioner's challenge largely rests on alleged contradictions in the complainant's testimony, particularly (i) the date of advancing the loan, (ii) whether documentation existed on the day of alleged payment, and (iii) peripheral details relating to drafting and execution of the agreement. These have been addressed by both courts, and the appreciation does not suffer

from perversity.

8. Date of payment: The complainant's pleaded case was that INR 10,00,000/- was withdrawn from the bank on 17th March, 2016 and handed over to the Petitioner. The bank statement proved on record evidences the withdrawal of INR 10,00,000/- on that date. In cross-examination, the complainant appears to have mentioned a different date at one place. Both courts have treated this as a lapse of recollection over time rather than a contradiction that destroys the substratum, particularly when the documentary trail of withdrawal supports the pleaded date and the complainant remained consistent on the core assertion that INR 10,00,000/- was advanced and remained unpaid.

9. "No document on that day" versus later documentation: There is nothing inherently improbable in the complainant's case that no document was executed on the day the loan was advanced, but that a General Agreement and receipt were executed later when repayment did not come through. Indeed, the very purpose of subsequent documentation is often to record and reaffirm an earlier transaction. The Petitioner's attempt to treat this as self-destructive does not appeal, and the courts below were justified in rejecting it.

10. Who typed the agreement, who purchased stamp paper, denomination of notes: These are not immaterial in every case, but they become peripheral when the core documentary case is that a written agreement and receipt were executed later, and the Petitioner fails to take effective steps to dislodge that document. The Petitioner did not lead any defence evidence, did not summon the attesting witnesses to support his version, and did not pursue any forensic or expert examination to substantiate the allegation of forged

signatures. In that setting, the courts below were justified in holding that cross-examination on such details does not, by itself, rebut the statutory presumption.

11. The Petitioner's plea that the General Agreement and receipt (Ex. CW1/C) were not signed by him was also considered. A mere denial of signature, without more, cannot be treated as rebuttal of a statutory presumption that has arisen from an admitted cheque. If the Petitioner wanted to contest Ex. CW1/C as a forged or fabricated document, the burden lay on him to take coherent steps consistent with that plea. No application was pursued for expert comparison and no defence evidence was led. The Appellate Court has also noted that the Petitioner did not set up a case that signatures were obtained by force, fraud, or coercion. In revision, the Court sees no basis to upset this appreciation.

12. The submission based on alleged "illegality" of a cash transaction above INR 20,000/- also does not advance the Petitioner's case in the manner suggested. Restrictions under fiscal or banking norms may attract consequences in the regulatory domain. They do not, without more, extinguish a civil liability or render a debt legally unenforceable for the purpose of Section 138 NI Act, particularly once the drawer admits issuance of the cheque and fails to establish the alternative explanation. In any event, this ground appears to have been raised for the first time at the revisional stage, and the record does not show any foundational material laid before the Trial Court to substantiate the legal plea in the manner now urged.

13. As regards service of legal notice, both courts have dealt with the issue on the basis of postal receipts and the admitted correctness of the address. Mere denial of receipt, without rebutting the dispatch does not by

itself demolish compliance.

14. The Petitioner's grievance that certain questions were not put at the stage of notice under Section 251 CrPC or later does not assist him on the facts of this case. The defence was recorded, the complainant was cross-examined at length, and full opportunity was available to lead defence evidence. No prejudice of the kind that would vitiate the trial is shown. Revisional interference on such an argument would require a clear demonstration of failure of justice, which is absent here.

15. Put simply, once the admitted cheque triggered the presumptions, the Petitioner was required to present a probable and coherent defence. The defence of a small loan, high interest repayment, and retention of security cheque remained unsupported by any contemporaneous material or conduct consistent with that narrative. On the other hand, the complainant's solvency at the relevant time stands supported by bank records and the subsequent written reaffirmation relied upon by the prosecution case. The view taken by the Trial Court, and affirmed in appeal, is a plausible and legally sustainable view on the record.

16. For these reasons, no perversity, illegality, or miscarriage of justice is demonstrated so as to warrant interference in revision. The revision petition is accordingly dismissed, along with pending applications, if any.

SANJEEV NARULA, J

DECEMBER 17, 2025/as