GAHC010009692014

2026:GAU-AS:325

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Rev.P./203/2014

MD ABU SAMAD CHOUDHURY and ANRT
S/O LT. AKON ALI CHOUDHURY VILL- LAWGAON, P.S. NAGAON SADAR, DIST. NAGAON, ASSAM.

2: MD. IMADULAH
SOLMARI POST OFFICE
P.S. NAGAON SADAR
DIST. NAGAON
ASSAM

VERSUS

MD JAMIR UDDIN and ANR
S/O MD. JAFOR ALI VILL- LAWGAON, P.S. NAGAON SADAR, DIST. NAGAON, ASSAM.

2:THE STATE OF ASSAM
REP. BY THE PUBLIC PROSECUTOR

Advocate for the Petitioner : MR.M CHOUDHURY, MR.K CHOUDHURY,MS.J HAZARIKA

Advocate for the Respondent : PP, ASSAM, MR.U CHOUDHURY,MR.B M CHOUDHURY,MS.H HAZARIKA,MR.R ULLAH

B E F O R E

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

For the Petitioners : Mr. M Choudhury

For the Respondents : Mr. B M Choudhury

Mr. U Choudhury

Ms. S H Bora

Date of Hearing : 16.10.2025

Date of Judgment : 06.01.2026

JUDGMENT AND ORDER (CAV)

Heard Mr. M Choudhury, learned counsel for the petitioners. Also heard Mr. B M Choudhury along with Mr. U Choudhury, learned counsels, appearing for the respondent No. 1 and Ms. S H Bora, learned Additional Public Prosecutor, Assam for the respondent No. 2.

2. The challenge in the present revision petition is to the judgment and order dated 13.02.2014 passed by the learned Additional Sessions Judge, Nagaon in Crl. A. No. 62(N)/2013, upholding the judgment and order dated 14.06.2013 passed by the learned Judicial Magistrate First Class, Nagaon in C.R. Case No. 2806/2009, convicting the petitioners, herein, under Section 138 of the Negotiable Instruments Act, 1881 and sentencing them to pay compensation of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand), in default, to undergo Simple Imprisonment for 1 (one) year.

3. The facts in brief requisite for adjudication of the issue arising in the present criminal revision petition is noticed as under:

The respondent No. 1, herein, had filed a complaint before the Court of learned Judicial Magistrate First Class, Nagaon, which was registered as C.R. Case No. 2806/2009 against the petitioners, herein, alleging commission of offence under Section 138 of the Negotiable Instruments Act, 1881.

As projected in the complaint, the petitioners, herein, being in need of money for investment in their NGO, had borrowed Rs.1,00,000/- (Rupees One Lakh) from the respondent No. 1 with a promise to return the same on demand along with a lump sum

profit. The respondent No. 1, on making a demand for repayment of the loan amount, the petitioners, herein, had issued a cheque bearing No. 002888 dated 19.02.2009, amounting to Rs.1,00,000/- (Rupees One Lakh) only, in the name of the respondent No. 1 drawn on Punjab National Bank. The respondent No. 1 deposited the cheque for encashment in his account maintained with the Nagaon Branch of Indian Bank, but the said cheque was returned on 13.03.2009 on the ground of insufficient fund in the account of the petitioners, herein. The said fact being brought to the notice of the petitioners, herein, they requested the respondent No. 1 to represent the cheque again after a few days. Accordingly, the respondent No. 1 represented the cheque, however, the same was again returned on the ground of insufficiency of funds in the account of the petitioners.

The above development having taken place, the respondent No. 1 issued a demand notice dated 19.06.2009 to the petitioners, herein, by registered post with A/D. The petitioners, herein, on receipt of the said notice issued a reply thereto on 09.07.2009, inter-alia, admitting therein about issuance of the cheque of Rs.1,00,000/- (Rupees One Lakh). However, a plea was taken therein that the amount involved in the cheque was paid to the respondent No. 1. However, as per agreement he did not return the cheque. The liability to pay the amount of cheque was denied and a demand was made of the respondent No. 1 to return the cheque as he had already received the payment against the same.

The respondent No. 1, herein, thereafter, instituted the complaint case before the learned Trial Court and the matter was considered by the learned Judicial Magistrate First Class, Nagaon.

During the trial, the respondent No. 1 had examined 4 witnesses. Thereafter, the statements of the petitioners, herein, were recorded under Section 313 Cr.P.C. The petitioners, herein, also adduced evidence of two defence witnesses.

On conclusion of the trial, basing on the materials coming on record, the learned Judicial Magistrate First Class, Nagaon proceeded vide judgment dated 14.06.2013 to convict the petitioners, herein, under Section 138 of the N.I. Act and sentenced them to pay a compensation of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand) only, in default, to undergo

Simple Imprisonment for 1 (one) year.

The petitioners being aggrieved by their conviction by the learned Trial Court vide judgment dated 14.06.2013, assailed the same by way of instituting an appeal before the Court of learned Sessions Judge, Nagaon. The said appeal was registered as Crl. A. No. 62(N)/2013 and was taken up for consideration by the Court of learned Additional Sessions Judge, Nagaon.

The Appellate Court upon perusing the evidences coming on record, proceeded vide judgment dated 13.02.2014 to dismiss the said appeal and thereby, uphold the judgment dated 14.06.2013 passed by the learned Trial Court.

Being aggrieved, the petitioners, herein, have instituted the present criminal revision petition.

4. Mr. M Choudhury, learned counsel for the petitioners, by referring to the Trial Court's records has submitted that the prayer of the petitioner for referring the signature of the respondent No. 1 for examination by the Forensic Expert was allowed by the learned Trial Court vide order dated 13.12.2012. He submits that although the said liberty was granted to the petitioners, herein, they were prevented on account of financial constraints to avail the same. He submits that the petitioners, herein, had thereafter submitted before the learned Trial Court about their inability to have the forensic examination carried out and requested the learned Trial Court to exercise its power under Section 73 of the Evidence Act in the matter. He submits that the said position is reflected in the order dated 19.01.2013 passed by the learned Trial Court.

Mr. Choudhury, learned counsel for the petitioners has further submitted that it was the specific case of the petitioners before the learned Trial Court that the amount involved in the cheque in question was paid to the respondent No. 1, herein and a payment voucher, duly signed by him in the matter, was obtained, which was exhibited during the trial as Ext. B series. He submits that Ext.B3 pertains to the receipt by the respondent No. 1, herein, of the amount involved.

Mr. Choudhury, submits that the learned Trial Court was vested with the power under Section 73 of the Evidence Act to carry out an examination of the signature of the respondent No. 1 as obtaining in the said payment voucher (Ext.B3) with the signatures that would have been so made before the Court by the respondent No. 1. He submits that the amount involved in the cheque being received by the respondent No. 1, an offence under Section 138 of the NI Act could not have been held to have been committed by the petitioners, herein, in the matter. He submits that the inaction on the part of the learned Trial Court to exercise its power under Sections 45 and 73 of the Evidence Act has resulted in miscarriage of Justice, which would be now required to be redressed by this Court in the present revision petition. Accordingly, he prays that the orders impugned in the present revision petition would mandate interference from this Court.

5. Per contra, Mr. B M Choudhury, learned counsel appearing for the respondent No. 1 submits that towards the fag end of the trial, the petitioners, herein, had instituted Crl. Misc. (T) No. 1545/2012 before the Court of learned Sessions Judge, Nagaon, inter-alia, praying for transfer of the case from the Court of learned Judicial Magistrate First Class, Nagaon to any other Court for disposal. It was further projected therein that the petitioners, herein, had filed a petition praying for taking steps for getting the signature of the respondent No. 1, herein, examined by a handwriting expert. On consideration of the matter, the Court of learned Sessions Judge, Nagaon, vide order dated 09.10.2012 had remanded the matter back to the Court of learned Chief Judicial Magistrate, Nagaon for assigning the matter to any other Magistrate, for disposal.

Mr. B M Choudhury, learned counsel appearing for the respondent No. 1 submits that after the passing of the said order dated 09.10.2012**,** the petitioners, herein, had filed a petition for referring the signature of the respondent No. 1 available in Ext. B(1), B(2), B(3) and B(4) to a handwriting expert. He submits that the learned Trial Court vide order dated 13.12.2012 had accepted the prayer of the petitioners, herein, for sending the said exhibits to the Forensic Science Laboratory for opinion of the handwriting expert as to whether the said documents were written by one and the same person. He submits that although the said liberty was granted to the petitioners, herein, by the learned Trial Court, no steps came to be

taken by them in pursuance thereof. He submits that on 19.01.2013, the petitioners, herein, had stated before the learned Trial Court that they do not propose to go for the forensic examination due to financial difficulty and had required the Court to exercise its power under Section 73 of the Evidence Act. He submits that the learned Trial Court had duly examined the said position and had drawn conclusions to the effect that the petitioners, herein, had failed to discharge the burden of proof by bringing in evidence in support of their claim to the effect that the amount involved in the cheque was already paid to the respondent No. 1, herein. He submits that while it is open to a Trial Court to carry out a visual examination of an admitted signature with the disputed one, such power conferred upon the learned Trial Court under Section 73 of the Evidence Act is to be used sparingly. He submits that the petitioners, herein, having admitted issuance of the cheque in question as well as their signatures, therein, in lieu of the loan amount advanced to them by the respondent No. 1, herein, the presumption under Section 139 of the NI Act, being drawn by the learned Trial Court against the petitioners, herein, it was the bounded duty of the petitioners, herein, to rebut such presumption by adducing cogent and reliable evidence which they admittedly had failed to do. He submits that the learned Trial Court basing on the evidences coming on record had committed no error in convicting the petitioners, herein, under Section 138 of the NI Act. He further submits that the learned Appellate Court upon appreciating the evidences coming on record had vide judgment dated 13.02.2014 dismissed the appeal and no error is found in the conclusions drawn by the learned Appellate Court in the matter.

In the above premises, he submits that the present criminal revision petition would not mandate acceptance by this Court.

6. I have heard the learned counsels for the parties and also perused the materials available on record.

7. The facts noticed hereinabove are not in dispute.

The issuance of the cheque as well as the amount, therein, were admitted to by the petitioners, herein. The signatures of the petitioners, in the said cheque were also not disputed. The petitioners, herein, before the learned Trial Court had taken a plea to the effect

that the amount involved in the cheque was released to the respondent No. 1, herein and the respondent No. 1 had received the amount by way of execution of a payment voucher, which was exhibited as Ext. B(3). It is the case of the petitioners before the learned Trial Court that the amount in question having been paid to the respondent No. 1, no offence under Section 138 of the NI Act could have been alleged against the petitioners.

8. In view of the evidences coming on record, the learned Trial Court vide judgment dated 14.06.2013 had drawn the following conclusions:-

> "*6. PW-1 the complainant stated that on demand the accused issued a cheque of Punjab National Bank on 19.02.2009 for a sum of Rs.1,00,000/- as the payment of the borrowed money. That Ext-1 is the cheque. The accused as DW-1 has admitted that the signature on Ext-1 is his although he claims that the cheque was given initially for repayment of the borrowed money. He also stated that he had repaid the loan after the Bank made some mistake and he paid the complainant in cash and so no money was due now. He stated that the complainant had not returned the cheque after repayment and instead presented it in the bank. On scrutiny of the entire evidence on record it appears that the accused persons have not been able to prove their claim that the complainant had acknowledged his payment of the debt as per Ext.B, i.e., the complainant has completely denied the signatures on Ext-B as his. The complainant has totally denied the repayment in Ext-B. The accused persons on their own prayer, were granted the privilege of sending the signatures on Ext-B for expert examination to FSL. However, they eventually did not avail the said opportunity. The Ld. counsel for the accused submitted that since the complainant has denied the signatures on Ext-B, the burden to prove the same shifts to him. I am unable to accept the argument as it is the accused who had raised the defence that as per Ext-B he had repaid the loan and thereafter had no legally enforceable liability. Under the circumstances, it is the accused who has to discharge the burden of proof by bringing in evidence that supports his claim. Unless he discharges his burden the same cannot shift to the complainant. The accused has also admitted that he had filed no separate case for his lost or unreturned cheque or intimated to the Bank about the non return of the same.*

From the above discussion, it transpires that as the signature on the cheque (Ext.1) is admitted to be that of the accused, the presumption envisaged in Sect. 118 of the N.I. Act can be legally inferred that the cheque was made or drawn for consideration on the date which the cheque bears. Further, Sec. 139 of the Act enjoins on the Court to presume that the holder of the cheque received it for the discharge of any debt or liability as held by the Hon'ble Supreme Court in the case of K. Bhaskaran Vs. Sankaran Vidhyan Balan reported in AIR 1999 SC 3762.

Both the sides have cited a number of decisions in their support such as 2011 (1) SCC (Cri) 184; 2008 (7) SCC 655; 2003 SCC (Cri) 603; 2001 SCC (Cri) 960; Cr LJ 2007 Bom 154; SCC(Cri) 2012 (1013); AIR 2009 SC 1518 and more. I have perused all of them and have also closely scrutinised the evidence on record.

7. *Before we come to the conclusion that the complainant can avail of the benefits of the presumptions of the N.I. Act let us first discuss the other points of determination. The complainant as PW-1 deposed that the accused issued the cheque to him on 19.02.09. That he presented the cheque for encashment to the Indian Bank. PW-4 the Branch Manager of the Indian Bank deposed in court that the cheque was presented on 19.02.09 and again presented on 13.05.09. It is seen that this is not disputed by the defence. It is therefore held that the cheque i.e, Ext-1 was presented to the bank by the complainant within a period of six months or within its validity.*

PW-1 stated that the cheque was returned to him by the Indian Bank along with the cheque return memo stating that the cheque could not be encashed due to insufficiency of fund in the account of the accused. Ext-5 & 6 are the cheque Return Memos dated 25.05.09 and 02.06.09 issued by the PNB and Indian Bank respectively. PW-3 the Branch Manager of the Punjab National Bank stated that they had received the cheque Ext-1 for encashment but the same could not be cleared due to insufficiency of funds in the account of the accused. Ext-3 is the cheque return memo dated 13.05.09. Ext-1 was presented again for the second time but it was again returned due to insufficiency of funds vide return memo Ext-5. From the perusal of Ext-3 and Ext-5, and the deposition of the witnesses it can be held that the cheque got

dishonoured due to insufficient funds in the accused persons' account.

8. *The complainant as PW-1 stated that he sent an advocate's demand notice and the same was received by the accused. The accused in his evidence as DW-1 has admitted to having received the demand notice but instead of making any arrangement for payment he gave a written reply to the notice through his advocate alleging repayment and cheating by the complainant. It is therefore held that the notice sent by the complainant u/s 138 N.I. Act was given within 30 days of the receipt of information from the bank and that it was duly received by the accused. And from the discussions made it is clear that the accused did not make any payment even after receipt of the notice.*

Now, it is seen that all the ingredients of Sec 138 N.I. Act relating to presentation, giving of notice and the non-payment after receipt of notice by the drawer of the cheque are all present in this case. In view of the provision of Sec139, N.I. Act it is incumbent upon the Court to presume that the cheque issued by a drawer in favour of a payee is in discharge of a debt or a liability. It is for the accused to rebut the presumption u/s 139 of the Act. This burden resting on the accused is not a light one "and cannot be held to be discharged merely by reason of the fact that the explanation offered by the accused is reasonable and probable. It must be further shown that the explanation is a true one. The words "unless the contrary is proved" make it clear that the presumption has to be rebutted by "proof" and not by a bare explanation which is merely plausible." (Dhanvantrai Balwantrai Desai vs State). And as already discussed in our case the accused failed to rebut the presumptions. The accused failed to adduce evidence necessary to win the confidence of the Court on which the Court can hold the defence to exist.

Considering all the above discussions and from the evidence on record, it is found that the complainant has succeeded to prove the case against the accused persons beyond doubt. Hence, the accused persons are found guilty of the offence as alleged."

9. The learned Appellate Court on an appeal being presented before it, vide judgment dated 13.02.2014 had drawn the following conclusions:-

7) <u>DECISIONS AND REASONS THEREOF</u>

In the instant case the complainant alleged that he has good relation with the accused persons and as such one day the accused person requested him to give a loan of Rs.1,00,000/- which they will repay on his demand. Accordingly, he paid Rs. 1,00,000/- to the accused persons which was admitted by DW 1 in his evidence. When the complainant PW1 demanded said Rs.1,00,000/- the accused persons issued Ext.1 cheque in his favour. On the day itself, when he received the cheque he deposited the same in the Indian Bank but the bank informed him that as the fund was insufficient the payment could not be made. Then he asked the accused persons, in turn the accused persons told him to deposit the same after few days. When after awaiting of few days he again deposited the said cheque into the bank, the said cheque was not encashed due to insufficiency of fund. The accused persons by adducing evidence of DW 1 admitted that the cheque was issued by him for discharge of their debt. The DW 1 further stated that there was some mistake committed by the bank, therefore he paid Rs.1,00,000/- in cash to the complainant. But the complainant has mis-used the said cheque which was given to him. The complainant also after receiving the cash amount of Rs.1,00,000/- did not return the cheque itself. From this piece of evidence, it is clear that there was debt and to discharge the debt the accused persons issued the cheque (Ext.1) but the defence plea is that when there was some mistake detected on the part of the bank they paid the borrowed sum of Rs.1,00,000/- to the complainant in cash.

8) Now the question to be determined is whether the accused persons paid the said Rs.1,00,000/- in cash to the complainant towards the repayment of loan. The accused persons exhibited the Ext.B payment voucher and stated that they paid Rs.1,00,000/- to the complainant vide payment voucher contained in Ext.B. In Ext.B there are four payment vouchers marked as Ext.B(1) to B(4). The accused given an advocate notice dated 9.7.09 to Md. Jamiruddin the complainant which is marked as Ext.11, wherein the accused stated that there was an agreement between the accused and the complainant that on payment of Rs.1,00,000/-, the complainant would be bound to return the said cheque of Rs.1,00,000/- dated 19.2.09 to the accused persons. Further stated that on 19.2.09 the said amount was duly accepted by the complainant and put his signature on the said voucher dated 19.2.09 but then also the complainant did not return the cheque rather did fraudulent activities. On perusal of Ext.B(3) payment voucher dated 19.2.09 it is seen that Md. Jamiruddin the complainant received Rs.1,00,000/- vide cheque No.0022888 of Punjab National Bank, Rupahihat Branch, Nagaon. So from the Ext.11 notice, it is seen that the accused persons paid Rs.1,00,000/- in cash to the complainant on 19.2.09 but from Ext.B(3) payment voucher dated 19.2.09 it is seen that Rs.1,00,000/- was paid to complainant Jamirrudin vide aforementioned cheque. There are self-contradictory statements by the accused. From the Ext.B(3) payment voucher and Ext.1 cheque of Punjab National

Bank it is clear that on 19.2.09 the cheque was issued and on that day itself the cheque was presented to the Bank for encashment but was not paid due to insufficiency of funds. Moreover, the complainant denied that he put any signature on payment voucher for any transaction with the accused persons. But the accused persons failed to prove that those signatures were of the complainant Jamiruddin. In view of above mentioned discussion the plea of accused persons that they refunded Rs.1,00,000/- in cash to the complainant is not accepted at all and relied upon.

9) From the evidences available on record, I have found that in the present case all the ingredients of Section 138 of N.I. Act are present. It is admitted that the accused borrowed Rs.1,00,000/- from the complainant and in discharging their liabilities they issued the cheque of Punjab National Bank yide No.002888 dated 19.2.09 marked as Ext.1 and on receipt of the cheque the complainant deposited the same to the bank on the day itself vide Ext. 2 but the cheque was not encashed due to insufficiency of fund, then the complainant told the accused persons about the insufficiency of fund, in turn they told him to present the cheque after a few days. Accordingly the complainant again deposited the cheque vide Ext.4 dated 13.5.09 then also it was not encashed due to insufficiency of fund as informed by the bank vide Ext.5 dated 25.5. 09. Thereafter, the complainant on 12.6.09 within one month of the receipt of information from bank issued d demand notice to the accused persons demanding money vide Ext. 7 which was duly received by the accused persons on 22.6.09 as supported by Ext.9 document. But they failed to pay the money within 15 days, thereafter, the instant case is filed u/s 138 of the N.I. Act. In view of above mentioned discussion it is crystal clear that the accused persons have committed the offence u/s 138 of the N.I. Act."

Basing on the said conclusions, the learned Appellate Court proceeded to dismiss the appeal.

10. This Court has minutely perused the conclusions drawn by the learned Trial Court as well as those drawn by the learned Appellate Court and finds the same to have been drawn basing on the evidences coming on record. No perversity is found to exist with regard to the conclusions so drawn by the learned Trial Court as well as by the learned Appellate Court in the orders impugned in the present revision petition.

11. Having drawn the above conclusions, this Court would now examine the plea of the learned counsel for the petitioners that the learned Trial Court erred in not proceeding to exercise its powers under Section 73 of the Evidence Act to tally the signatures of the respondent No. 1 with the other admitted signatures of the respondent No. 1 to arrive at a conclusion that the payment voucher was signed by the respondent No. 1 after having received Rs.1,00,000/- (Rupees One Lakh) in satisfaction of the amount involved in the

cheque in question.

12. The learned counsel for the petitioners in support of his said submissions, has relied on the following decisions of the Hon'ble Supreme Court in the cases of (i) *State (Delhi Administration) Vs. Pali Ram*, reported in *AIR 1979 SC 14*, (ii) *Murari Lal Vs. State of Madhya Pradesh*, reported in *(1980) 1 SCC 704* and (iii) *K. S. Satyanarayana Vs. V.R. Narayana Rao*, reported in *(1999) 6 SCC 104*.

13. This Court has perused the said decisions. On a perusal of the said decisions, it is the settled position that while there is no legal bar preventing the Court from comparing disputed signatures or handwriting, by using its own eyes with the admitted writings and then applying its own observation to prove the said handwriting to be same or different, as the case may be, but in doing so the Court cannot itself become an expert in this regard and must refrain from playing the role of an expert, for the simple reason that the opinion of the Court may also not be conclusive. It is further settled that when the Court take such a task upon itself, and findings are recorded solely on the basis of comparison of signatures or handwritings, the Court must keep in mind the risk involved, as the opinion found by the Court may not be conclusive and is susceptible to error, especially when the exercise is conducted by one, not conversant with the subject. Accordingly, the Court, therefore, as a matter of prudence and caution should hesitate or be slow to base its finding solely upon the comparison made by it. However, the position would be different when there is an opinion whether of an expert, or of any witness, the Court may then apply its own observation by comparing the signatures, or handwritings for providing a decisive weight or influence its decision.

14. The Hon'ble Supreme Court in the case of *O. Bharathan Vs. K. Sudhakaran,* reported in *(1996) 2 SCC 704* considered a similar issue and held that the facts of a case will be relevant to decide where the Court will exercise its power for comparing the signatures and where it will refer the matter to an expert. The observations of the Hon'ble Supreme Court in this connection is extracted hereinbelow:

> "*18. The learned Judge in our view was not right… taking upon himself the hazardous task of adjudicating upon the genuineness and authenticity of the*

signatures in question even without the assistance of a skilled and trained person whose services could have been easily availed of. Annulling the verdict of popular will is as much a serious matter of grave concern to the society will is as much a serious matter of grave concern to the society as enforcement of laws pertaining to criminal offences, if not more. Though, it is the province of the expert to act as Judge or jury after a scientific comparison of the disputed signatures with admitted signatures, the caution administered by this Court is to the course to be adopted in such situations could not have been ignored unmindful of the serious repercussions arising out of the decision to be ultimately rendered."

15. The materials brought on record revealed that the learned Trial Court on the basis of a petition filed by the petitioners, herein, had vide order dated 13.12.2012 arrived at a decision to send the documents to the FSL for opinion of the handwriting expert. The petitioners, herein, were required in pursuance to the order dated 13.12.2012 to take requisite steps for sending the questioned documents to the FSL for its examination. However, the petitioners for reasons not known had failed to take any steps in this regard. The learned Trial Court vide order dated 19.01.2013 recorded the submission of the petitioners, herein, that they do not desire to go for forensic examination due to financial difficulty and also the submission that the Court may examine the same in exercise of its power under Section 73 of the Evidence Act.

16. In view of the decision of the Hon'ble Supreme Court in the case of *O. Bharathan Vs. K. Sudhakaran* (supra), the non-exercise of the power by the learned Trial Court in the facts of the present case available under Section 73 of the Evidence Act in the considered view of this Court would not be erroneous. The petitioners, herein, had not led evidence to the effect that the said amount in the cheque was duly paid by them to the respondent No. 1 before institution of the complaint case. Accordingly, the contention raised by the learned counsel for the petitioners with regard to non-exercise of power by the learned Trial Court available under Section 73 of the Evidence Act stands rejected.

17. From the evidences coming on record, this Court is of the considered view that the learned Trial Court as well as the learned Appellate Court had not erred in drawing its

conclusions. As noticed hereinabove, no perversity is also found with regard to such conclusions.

18. It is a settled position of law that a power of revision of this Court under Sections 397/401 Cr.P.C. is not wide and exhaustive. This Court in exercise of its power of revision cannot re-appreciate the evidences to come to a different conclusion, but its consideration of evidence is confined to find out the legality, regularity and propriety of the order impugned. When the findings rendered by the learned Trial Court as well as by the learned Appellate Court are well supported by the evidence on record and not perverse in any manner, this Court is not expected to interfere with such concurrent findings while exercising its revisional jurisdiction.

19. Accordingly, for the reasons set out hereinabove, this Court is of the considered view that the impugned judgment dated 14.06.2013 passed by the learned Judicial Magistrate First Class, Nagaon in C.R. Case No. 2806/2009 as well as the impugned judgment dated 13.02.2014 passed by the learned Additional Sessions Judge, Nagaon in Crl. A. No. 62(N)/2013 would not mandate any interference. The revision petition accordingly, stands dismissed.

20. The petitioners, herein, shall appear before the learned Trial Court within a period of 1 (one) month from today to pay the compensation amount, failing which, they would be liable to undergo Simple Imprisonment for 1 (one) year, as ordered by the learned Trial Court.

21. In view of the above, the present criminal revision petition stands dismissed.

JUDGE

Comparing Assistant