IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 1222 of 2017

Subodh Dutta, S/o Late Prafulla Kumar Dutta, R/o R.N. Singh Building, Mango, C/o M.S. Reliable Enterprise Office, Main Road, Near Petrol Pump, P.O. & P.S. – Mango, District – East Singhbhum, Jamshedpur.

.... **Petitioner**

Versus

1. State of Jharkhand.
2. Hira Prasad, S/o Late Jagnath Prasad, R/o H. No. 12/II, Sailpatri, A Vastu Bihar Duplex Complex, Baikunth Nagar, P.O. & P.S. – Mango, Jamshedpur, District – East Singhbhum.

.... **Opp. Parties**

Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioner : Mrs. Vani Kumari, Advocate
Ms. Vaishnavi Kaushik, Advocate.
Mr. P.A.S. Pati, Advocate.
For the State : Mr. Bishwambhar Shastri, A.P.P.
For the O.P. No. 2 : None.

JUDGMENT

CAV On Dated- 03.09.2026 Pronounced On 30.10.2026

Heard learned counsel for the petitioner as well as learned A.P.P. for the State. However, nobody appeared on behalf of the opposite party no. 2.

2. The instant criminal revision is directed against the judgment dated 20.06.2017 passed by learned Additional Sessions Judge-IX, Jamshedpur in Criminal Appeal No. 38 of 2016, whereby and whereunder the appellate court has dismissed the appeal and affirmed the judgment of conviction and order of sentence dated 16.02.2016 passed

by learned J.M., 1st Class, Jamshedpur in C/1 Case No. 1036 of 2013, whereby the petitioner has been held guilty and convicted for the offence punishable under Section 138 of the N.I. Act and sentenced to undergo S.I. for one year and also to pay a compensation amount of Rs. 12,50,000/- to the complainant.

3. Factual matrix giving rise to this revision is that the present petitioner approached to the complainant in the month of December, 2010 expressing his urgent need of money for his business and asked for a loan of Rs. 10 lakh assuring that it will be returned by the end of December, 2012. The complainant paid a sum of Rs. 10 lakh to the accused in installments, which the accused acknowledged by issuing receipt in presence of witnesses. It is alleged that after expiry of the stipulated period on 01.01.2013, the complainant demanded the loan amount and in lieu thereof the accused issued a cheque bearing no. 391078 for Rs. 10 lakhs in favour of the complainant drawn on Axis Bank, Bokaro Branch. The complainant presented the said cheque through his banker for encashment through SBI, Bistupur, Jamshedpur, which was dishonoured due to insufficient fund and was returned with cheque return memo dated 16.03.2013. The complainant issued a legal notice through his lawyer dated 23.03.2013 and sent through registered

post with A/D demanding the said amount within 15 days from the receipt of notice, but the accused did not made the payment of aforesaid amount within stipulated period. Hence, complainant was constrained to institute the Complaint Case No. 1036 of 2013 for the offence under Section 138 of the N.I. Act.

4. The learned trial court finding prima facie case constituting the offence under Section 138 of the N.I. Act issued summons against the accused, who appeared and contested the case denying the accusation leveled against him and claimed to be tried.

5. The complainant himself was examined as C.W.-1 and also relied upon following documentary evidence:-

Exhibit-1	:	Original cheque no. 391078 dated 01.01.2013 for amount of Rs. 10 Lakhs.
Exhibit-2 & 2/1	:	Original cheque return memo dated 16.03.2013 and 15.03.2013.
Exhibit-3	:	Office copy of legal demand notice.
Exhibit-4	:	Original postal receipt.

6. The case of defence is denial from the alleged transaction and plea of innocence as well as the cheque was issued as security and not for discharge of the liability. The amount and date on the cheque were not filled up by the

accused. However, no oral or documentary evidence has been adduced by the defence.

7. The learned trial court, after evaluating the evidence available on record, found sufficient evidence proving the offence under Section 138 of the N.I. Act against the petitioner held him guilty and sentenced accordingly.

8. Being aggrieved and dissatisfied with the conviction and sentence, the petitioner preferred Criminal Appeal No. 38 of 2016 before the learned Additional Sessions Judge-IX, Jamshedpur, which was also dismissed vide judgment dated 20.06.2017, which has been assailed in this revision.

9. Learned counsel for the petitioner has simply raised following grounds challenging the impugned judgment:-

(i) The acknowledgement of loan in presence of witnesses has not been proved by any independent witness. The learned trial court has committed serious illegality and perversity by placing reliance upon the sole testimony of complainant in this regard.

(ii) The cheque issued as security and not for discharge of loan amount, which has been maliciously filled up by the complainant and appropriated for payment of loan amount without knowledge of the petitioner. The petitioner never received any notice.

Hence, the impugned judgment and order is not legally sustainable and fit to be set aside and this revision is liable to be allowed.

10. On the other hand, learned A.P.P. appearing for the State has vehemently opposed the contention raised on behalf of the petitioner and submitted that there is no denial on the part of the petitioner with regard to the signature of him on the cheque. Both the courts below have aptly analyzed and appreciated the evidence on record and arrived at conclusion. There is concurrent finding of fact against the petitioner and there is no merit in this revision, which is fit to be dismissed.

11. I have gone through the record of the case along with impugned judgment in the light of contentions raised on behalf of both side. It appears that the complainant has consistently proved its case and the necessary formalities for initiation of proceeding under Section 138 of the N.I. Act. The defence has not been able to elicit any material to disbelieve or cast any doubt in the prosecution case. The filling up of the amount and date by any person itself does not invalidate the cheque when it is properly signed by the drawer of the cheque and also admitted. Here in this case, there is no dispute that the cheque was issued by the present petitioner for discharging his liability in respect of

loan transaction entered into with the complainant. Mere non-examination of witness to the acknowledgment of loan does not falsify the evidence of complainant. No serious ground has been taken in this revision showing any perversity in the judgment of learned trial court as well as appellate court.

12. The Hon'ble Apex Court in the case of ***Amit Kapoor v. Ramesh Chander*** reported in ***(2012) 9 SCC 460*** has held that :

> **12.** Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well- founded error and it may not be appropriate for the court to scrutinize the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

> **13.** Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner.

13. In view of above discussions and reasons, I do not find any merit in this revision. The impugned judgment of conviction and order of sentence passed by the learned trial court and upheld by the learned appellate court needs no interference by this Court and this criminal revision deserves to be dismissed.

14. Accordingly, the judgment of conviction and order of sentence passed by the learned trial court and upheld by the learned appellate court is hereby affirmed.

15. In the result, this criminal revision is hereby **dismissed.**

16. The petitioner is on bail. His bail bond is hereby cancelled.

17. The petitioner is directed to surrender before the concerned Trial Court within two months from the date of this judgment and receive the remaining period of sentence awarded by the learned Trial Court, failing which, the learned Trial Court shall take all coercive steps in securing the attendance of the petitioner and sending him under proper conviction warrant to jail custody for undergoing the remaining period of sentence awarded to him.

18. Pending I.A, if any, stand disposed of.

19. Let a copy of this judgment along with trial court record be sent to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated : 30/10/2026
Sunil/-NAFR
Uploaded On : 30/10/2026