IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 1056 of 2016

Shyam Lal, son of Late Babu Lal, resident of Qr. No. K2/272, Tube Colony, Baridih, P.O.-Baridih, P.S.-Sidhgora, Town, Jamshedpur, District- East Singhbhum

... ... **Petitioner**

Versus

1. The State of Jharkhand
2. Surendra Lal, son of Late Narsingh Lal, resident of Qr. No.L6/47, Tube Colony, Post-Baridih, P.S.-Sidhgora, Town-Jamshedpur, District-East Singhbhum

… … **Opp. Parties**

P R E S E N T

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioner : Mr. S.L. Agarwal, Advocate
Ms. Ayushi, Advocate
For the State : Mr. Saket Kumar, A.P.P.
For the O.P. No.2 : Mr. Namit Kumar, Advocate
Mrs. Preity Sinha, Advocate

C.A.V. on 10.08.2026 **Pronounced on 03/09/2026**

1. I have already heard the arguments of Mr. S.L. Agarwal, learned counsel for the petitioner, Mr. Saket Kumar, learned A.P.P. and Mr. Namit Kumar, learned counsel appearing for the opposite party No.2.

2. Instant criminal revision is directed against the judgment dated 16.07.2016 passed by learned Additional Sessions Judge-VIII, Jamshedpur, in Criminal Appeal No. 161 of 2013, whereby and whereunder the learned Appellate Court dismissed the appeal and affirmed the judgment of conviction and order of sentence dated 17.06.2013 passed by learned Judicial Magistrate, 1st Class, Jamshedpur in C-1 Case No. 1885 of 2009 whereby and whereunder, the petitioner has been convicted for the offence under Section 138 of the N.I. Act and sentenced to undergo R.I. for six months along

with payment of compensation of Rs.4,50,000/- in default of payment of the said compensation to undergo further R.I. for one year.

Factual Matrix

3. Factual matrix giving rise to this revision is that the complainant, Surendra Lal, lodged a complaint case being C-1 Case No. 1885 of 2009, stating, *inter alia*, that the petitioner and the complainant were well known to each other and that, at the request of the petitioner/accused, the complainant had given a friendly loan of Rs. 4,50,000/- to him in the month of February 2009 in the presence of a witness. It is further alleged that, towards repayment of the aforesaid loan amount, the accused issued an account-payee cheque in favour of the complainant, bearing Cheque No. 625994, dated 02.06.2009, for an amount of Rs. 4,50,000/-, drawn on the Bank of Baroda, Bhuiyandih Branch, Jamshedpur. The said cheque was presented for encashment on 03.06.2009, however, it was dishonoured and returned by the bank with the endorsement "insufficient funds" vide return memo dated 05.06.2009, which was received by the complainant on 08.06.2009. Thereafter, the complainant sent a legal notice by registered post with A/D on 18.06.2009, demanding payment of the cheque amount. The said notice was replied to by the counsel for the petitioner/accused, contending that the envelope received by the accused was empty. It is further stated that the complainant again sent a reminder along with a copy of the earlier notice, on 03.07.2009, however, even

thereafter, the accused failed to pay the cheque amount. Accordingly, the complainant filed the instant complaint petition, alleging commission of offences under Section 138 of the Negotiable Instruments Act and Section 420 of the I.P.C.

4. After inquiry, summons were issued against the petitioner under Section 138 of the N.I. Act. Upon appearing before the learned Trial Court the petitioner faced trial and after conducting the trial, the learned Trial Court took cognizance of the offence under Section 138 of the N.I. Act against the accused petitioner.

5. The substance of accusation was explained to accused, to which he pleaded not guilty and claimed to be tried.

6. In order to substantiate the charge, the complainant was examined himself as C.W.-1 and adduced following documentary evidence:-

(i) Exhibit-1-Money receipt acknowledging payment of Rs.4,50,000/-

(ii) Exhibit-2-Original cheque No.625994 dated 02.06.2009

(iii) Exhibit-3-Computerized memo of return of cheque of Bank of Baroda

(iv) Exhibit-4-Legal notice dated 18.06.2009

(v) Exhibit-5-Postal receipt dated 18.06.2009

(vi) Exhibit-6-Reply dated 29.06.2009 of legal notice

(vii) Exhibit-7-Legal notice dated 03.07.2009

(viii) Exhibit-8-Postal receipt dated 03.07.2009

7. On the other hand, defence has also examined two witnesses,

namely Ratan Karanwa (D.W.-1) and Shyamlal (D.W.-2) the petitioner himself.

8. The accused, in his statement recorded under Section 313 of the Cr.P.C has denied the incriminating evidence against him.

9. Learned Trial court after scrutinizing the evidence adduced by the parties held the petitioner guilty for the offence under Section 138 of the N.I. Act and sentenced to undergo R.I. for six months along with payment of compensation of Rs.4,50,000/- in default of payment of the said compensation to undergo further R.I. for one year. The convict (petitioner) filed Cr. Appeal No. 161 of 2013, which was also dismissed by affirming the judgment of conviction and the order of sentence passed by learned Trial Court, which has been assailed in this revision.

10. Learned counsel for the petitioner has submitted that the impugned judgments of conviction and order of sentence are illegal, improper and unsustainable in law, as the learned Courts below failed to properly appreciate the documentary and oral evidence adduced by the defence and also overlooked material contradictions in the complainant's evidence. It has further been submitted that the complainant failed to establish his financial capacity to advance the alleged loan of Rs.4,50,000/- and did not produce any material to show that he was an income-tax payee. The learned courts below have also failed to consider the statutory provisions contained in Section 269SS of the Income Tax Act regarding acceptance of loans and the effect of such violation on the alleged transaction. It has also

been contended that the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act could not have been mechanically relied upon without first considering the defence and the complainant's capacity to advance such a substantial amount. It is also submitted that the offence under Section 138 of the N.I. Act in summary trial and as per the provision of Section 326 (3) Cr.P.C., the subsequent Magistrate cannot passed the judgment on the basis of evidence recorded by his predecessors. It has further been submitted that the petitioner has been falsely implicated and the impugned judgments being contrary to the evidence and settled principles of law are liable to be set aside and the petitioner deserves to be acquitted from the charge leveled against him. Hence, this revision may be allowed.

11. *Per contra*, learned A.P.P. for the State as well as learned counsel for the opposite party No.2 controverting the aforesaid contentions raised on behalf of the petitioner has submitted that the learned Courts below have rightly appreciated the evidence and recorded concurrent findings regarding guilt of the petitioner for the offence under Section 138 of the N.I. Act, which suffers from no illegality or impropriety calling for any interference in this revision, which is devoid of merit and fit to be dismissed.

12. I have gone through the record of the case and perused the impugned judgment passed by learned Trial Court as well as the learned Appellate Court in the light of contentions raised on behalf of both side.

13. It appears that the signature of the petitioner on the cheque as well as on the money receipt has not been disputed. Once the execution and signature on the cheque are admitted, the statutory presumption under Sections 118 and 139 of the N.I. Act operates in favour of the complainant.

14. The contention regarding the complainant's financial capacity and alleged violation of Section 269SS of the Income Tax Act also does not dislodge the statutory presumption under the N.I. Act, particularly when the petitioner failed to rebut the presumption by leading cogent and reliable evidence. The learned Appellate Court has also considered these aspects and rightly upheld the conviction.

15. So far as the contention regarding the mode of trial and applicability of Section 326(3) Cr.P.C. is concerned, the learned Appellate Court, upon examination of the trial court’s record, has rightly found that the case was conducted as a summons trial and not as a summary trial. Therefore, no prejudice or illegality is shown on that count.

16. Thus, the findings recorded by both the Courts below are based upon proper appreciation of the evidence and are neither perverse nor contrary to the record. No material illegality, impropriety or jurisdictional error has been pointed out so as to warrant interference in the exercise of revisional jurisdiction.

17. In view of above discussion and reasons, I don’t find any valid reasons for interference in the impugned judgment and orders passed by learned Trial Court and the learned Appellate Court and no merits

in the revision, which stands **dismissed**.

18. The petitioner is on bail, his bail bond is cancelled and he is directed to surrender before the concerned Trial Court within two months from the date of this order to sustain the remaining period of sentence awarded to him, failing which, learned Trial Court shall take all coercive steps for arrest and detention of the petitioner for serving the remaining period of sentence awarded to him.

19. Pending I.A.(s), if any, stands disposed of accordingly.

20. Let a copy of this order along with Trial Court Record be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court
Dated 03/09/2026
Arpit/ ***N. A. F. R.***
Uploaded on 05/09/2026