**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. Revision No. 640 of 2026**
**Reserved on: 2.11.2026**
**Date of Decision: 19.11.2026.**

---

Janhit Thrift & Credit Co-operative Society ...Petitioner

Versus

Prabh Dyal ...Respondent

---

*Coram*

***Hon'ble Mr Justice Rakesh Kainthla, Judge.***

***Whether approved for reporting?***[1] ***Yes.***

| | | |
|---|---|---|
| For the Petitioner | : | Mr Lokesh Thakur, Advocate, vice Mr G.R. Palsra, Advocate. |
| For the Respondent | : | Nemo. |

---

**Rakesh Kainthla, Judge**

The petitioner has filed the present revision against the judgment dated 16.7.2026, passed by the learned Sessions Judge, Mandi, District Mandi (learned Appellate Court), vide which the judgment of acquittal passed by the learned Chief Judicial Magistrate First Class, Mandi (learned Trial Court), was upheld. *(The parties shall hereinafter be referred to in the same*

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

2026:HHC:49920

*manner as they were arrayed before the learned Trial Court for convenience).*

2. Briefly stated, the facts giving rise to the present revision are that the complainant filed a complaint before the learned Trial Court against the accused for the commission of an offence punishable under Section 138 of the Negotiable Instruments Act (in short, 'NI Act'). It was asserted that the accused availed a personal loan facility of ₹1,25,000/- from the complainant society. The accused defaulted in the repayment of the loan, and he was liable to pay ₹2,06,624/- to the complainant. The accused issued a cheque of ₹2,06,624/- to the complainant to discharge his liability. The complainant presented the cheque before the bank, but it was dishonoured with the endorsement "insufficient funds". The complainant issued a notice to the accused on 30.4.2019 through registered post. The notice was duly served upon the accused, but the accused failed to repay the money; hence, the complaint was filed before the learned Trial Court against the accused for taking action against him as per the law.

2026:HHC:49920

3. The learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, a notice of accusation was put to him for the commission of an offence punishable under Section 138 of the NI Act, to which he pleaded not guilty and claimed to be tried.

4. The complainant examined Manoj Kumar, Branch Manager (CW-1), to prove the complaint.

5. The accused, in his statement recorded under Section 313 of the Code of Criminal Procedure (CrPC), stated that he had paid ₹50,000/- earlier and was liable to pay ₹15,000/- to ₹20,000/-. He did not produce any evidence despite repeated opportunities, and his evidence was closed by the order of the Court.

6. The learned Trial Court held that the loan was advanced on 29.9.2014 as per the complaint, and the cheque was issued on 11.4.2019. The period of limitation for recovery of the debt is three years. The accused had not executed any document acknowledging his liability regarding the repayment of the loan. The cheque was issued after the expiry of three years from the date of taking the loan. The debt was time-barred on the date of

issuance of the cheque. The cheque was not issued towards the legally enforceable debt/liability; hence, the complaint was dismissed.

7. Being aggrieved by the judgment passed by the learned Trial Court, the complainant filed an appeal, which was decided by the learned Sessions Judge, Mandi, District Mandi (learned Appellate Court). The learned Appellate Court concurred with the findings recorded by the learned Trial Court that the loan was taken in the year 2014 and the cheque was issued in the year 2019. The cheque was issued towards the repayment of a time-barred debt. The learned Trial Court had rightly held that the cheque was not towards a legally enforceable debt/liability; there was no infirmity in the judgment passed by the learned Trial Court. Hence, the appeal was dismissed.

8. Being aggrieved by the judgments passed by the learned Courts below, the complainant has filed the present revision, asserting that the learned Courts below erred in dismissing the complaint. Section 49 of the H.P. Cooperative Societies Act overrides the general provisions contained in the

Limitation Act, and the learned Courts below erred in applying the provisions of the Limitation Act to the present case. The accused admitted the part-payment of ₹50,000/-, which constituted an acknowledgement reviving the period of limitation. This fact was ignored by the learned Courts below. The cheque carried with it a presumption that it was issued for consideration, and this presumption was ignored by the learned Courts below. The statement of account shows that the respondent had paid ₹500/- to the complainant on 7.10.2016, which had the effect of reviving the period of limitation. This was ignored by the learned Courts below. Therefore, it was prayed that the present revision be allowed and the judgments passed by the learned Courts below be set aside.

9. An application for leading additional evidence has also been filed by the applicant/complainant, asserting that the applicant/complainant had filed the statement of account along with the complaint, which could not be exhibited. The applicant wants to exhibit the material document, which demonstrates that the non-applicant/respondent had made a payment of ₹500/- in his loan account on 7.10.2016. The complaint was filed on 13.6.2019, within limitation. The exhibition of the document

is necessary to decide the present case. Hence, it was prayed that the present application be allowed.

10. Mr Lokesh Thakur, learned vice counsel appearing for the petitioner, submitted that the learned Courts below erred in dismissing the complaint after holding that it is barred by limitation. The accused had acknowledged the liability by making payment of ₹500/- on 7.10.2016, and the complaint was within limitation. Therefore, he prayed that the application for additional evidence be allowed and the judgments passed by the learned Courts below be set aside.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. It was laid down by the Hon'ble Supreme Court in ***Ganesha v. Sharanappa*, *(2014) 1 SCC 87: 2013 SCC OnLine SC 1014*** that interference with the acquittal is required when there is manifest error of law or fact or the order suffers from glaring illegality resulting in miscarriage of justice. It was observed at page 91:

> **11.** However, in a case where the finding of acquittal is recorded on account of misreading of evidence or non-consideration of evidence or perverse appreciation of

> evidence, nothing prevents the High Court from setting aside the order of acquittal at the instance of the informant in revision and directing fresh disposal on merit by the trial court. In the event of such direction, the trial court shall be obliged to reappraise the evidence in light of the observation of the Revisional Court and take an independent view uninfluenced by any of the observations of the Revisional Court on the merits of the case. By way of abundant caution, we may herein observe that interference with the order of acquittal in revision is called for only in cases where there is manifest error of law or procedure and in those exceptional cases in which it is found that the order of acquittal suffers from glaring illegality, resulting in miscarriage of justice. The High Court may also interfere in those cases of acquittal caused by shutting out the evidence which otherwise ought to have been considered or where the material evidence which clinches the issue has been overlooked. In such an exceptional case, the High Court in revision can set aside an order of acquittal, but it cannot convert an order of acquittal into that of an order of conviction. The only course left to the High Court in such exceptional cases is to order retrial.

13. Before adverting to the merits of the revision, it is necessary to dispose of an application for production of additional evidence filed on behalf of the petitioner/applicant under Section 432 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) corresponding to Section 391 of the Cr.P.C.

14. It was laid down by the Hon'ble Supreme Court in ***State of Rajasthan v. Asharam, 2023 SCC OnLine SC 423***, that Sections 311 and 391 of Cr. P.C. deal with the power of the Court

to take additional evidence. Section 311 deals with the trial, while Section 391 deals with the appeal. The Appellate Court can examine the evidence, but it does not possess the wide powers conferred upon the Trial Court. It was observed:

> "6. Both Sections 311 and 391 of the Cr. P.C. relate to the power of the court to take additional evidence; the former at the stage of trial and before the judgment is pronounced; and the latter at the appellate stage after judgment by the trial court has been pronounced. It may not be entirely correct to state that the same considerations would apply to both situations, as there is a difference in the stages. Section 311 of the Cr. P.C. consists of two parts; the first gives power to the court to summon any witness at any stage of inquiry, trial or other proceedings, whether the person is listed as a witness or is in attendance though not summoned as a witness. Secondly, the trial court has the power to recall and re-examine any person already examined if his evidence appears to be essential to the just decision of the case. On the other hand, the discretion under Section 391 of the Cr. P.C. should be read as somewhat more restricted in comparison to Section 311 of the Cr. P.C., as the appellate court is dealing with an appeal, after the trial court has come to a conclusion with regard to the guilt or otherwise of the person being prosecuted. The appellate court can examine the evidence in depth and detail, yet it does not possess all the powers of the trial court, as it deals with cases wherein the decision has already been pronounced."

15. It was laid down in ***Sukhjeet Singh v. State of U.P.*, *(2019) 16 SCC 712: (2020) 2 SCC (Cri) 434: 2019 SCC OnLine SC 72***, that the additional evidence can be taken by the Appellate Court

if the evidence is necessary for just determination of the case; however, Section 391 cannot be used for retrial. The order should not be made if the party had sufficient opportunities and had not availed those opportunities. It was observed at page 722:

> "**24.** Power to take additional evidence under Section 391 is, thus, with an object to appropriately decide the appeal by the appellate court to secure ends of justice. The scope and ambit of Section 391 CrPC has come up for consideration before this Court in ***Rajeswar Prasad Misra v. State of W.B. [Rajeswar Prasad Misra v. State of W.B., AIR 1965 SC 1887: (1965) 2 Cri LJ 817].*** Hidayatullah, J., speaking for the Bench, held that a wide discretion is conferred on the appellate courts and the additional evidence may be necessary for a variety of reasons. He held that additional evidence must be necessary not because it would be impossible to pronounce judgment but because *there would be a failure of justice without it*. The following was laid down in paras 8 and 9: (AIR p. 1892)
>
> "*8.* ... Since a wide discretion is conferred on appellate courts, the limits of that court's jurisdiction must obviously be dictated by the exigency of the situation and fair play, and good sense appear to be the only safe guides. There is no doubt, some analogy between the power to order a retrial and the power to take additional evidence. The former is an extreme step appropriately taken if additional evidence will not suffice. Both actions subsume failure of justice as a condition precedent. There, the resemblance ends, and it is hardly proper to construe one section with the aid of observations made by this Court in the interpretation of the other section.
>
> *9.* Additional evidence may be necessary for a variety of reasons, which it is hardly necessary (even if it were

possible) to list here. We do not propose to do what the legislature has refrained from doing, namely, to control the discretion of the appellate court under certain stated circumstances. It may, however, be said that additional evidence must be necessary not because it would be impossible to pronounce judgment but because there would be a failure of justice without it. The power must be exercised sparingly and only in suitable cases. Once such action is justified, there is no restriction on the kind of evidence that may be received. It may be formal or substantial. It must, of course, not be received in such a way as to cause prejudice to the accused, as, for example, it should not be received as a disguise for a retrial or to change the nature of the case against him. The order must not ordinarily be made if the prosecution has had a fair opportunity and has not availed of it unless the requirements of justice dictate otherwise."

**25.** This Court, again, in ***Rambhau v. State of Maharashtra [Rambhau v. State of Maharashtra, (2001) 4 SCC 759: 2001 SCC (Cri) 812],*** had noted the power under Section 391 CrPC of the appellate court. The following was stated in paras 1 and 2 : (SCC p. 761)

> *1.* There is a very wide discretion available in the matter of obtaining additional evidence in terms of Section 391 of the Code of Criminal Procedure. A plain look at the statutory provisions (Section 391) would reveal the same...
>
> 2. A word of caution, however, ought to be introduced for guidance, to wit: that this additional evidence cannot and ought not to be received in such a way as to cause any prejudice to the accused. It is not a disguise for a retrial or to change the nature of the case against the accused. This Court in ***Rajeswar Prasad Misra v. State of W.B. [Rajeswar Prasad Misra v. State of W.B., AIR 1965 SC 1887: (1965) 2 Cri LJ 817]*** in no uncertain terms observed that *the*

> *order must not ordinarily be made if the prosecution has had a fair opportunity and has not availed of it.* This Court was candid enough to record, however, that it is the concept of justice which ought to prevail, and in the event, the same dictates exercise of power as conferred by the Code, there ought not to be any hesitation in that regard."
>
> **26.** From the law laid down by this Court as noted above, it is clear that there are no fetters on the power under Section 391 CrPC of the appellate court. All powers are conferred on the court to secure the ends of justice. The ultimate object of judicial administration is to secure the ends of justice. The court exists for rendering justice to the people." (Emphasis supplied)

16. This position was reiterated in ***State (NCT of Delhi) v. Pankaj Chaudhary*, *(2019) 11 SCC 575: (2019) 4 SCC (Cri) 264: 2018 SCC OnLine SC 2256*,** and it was held that this power should not be exercised to fill up the gaps by either side, especially to reverse the judgment of the learned Trial Court. It was observed at page 586:

> "25. The High Court observed that the trial court erred in saying that the accused failed to prove the making of previous complaints against the prosecutrix. While saying so, the High Court referred to certain complaints made against the prosecutrix, including the one allegedly given on 21-7-1997, which were produced by the Bar at the time of arguments. The power conferred under Section 391 CrPC is to be exercised with great care and caution. In dealing with any appeal, the appellate court can refer to the additional evidence only if the same has been recorded as provided under Section 391 CrPC. Any

> material produced before the appellate court to fill in the gaps by either side cannot be considered by the appellate court; more so, to reverse the judgment of the trial court."

17. Similarly, it was held in ***H.N. Jagadeesh v. R. Rajeshwari*, *(2019) 16 SCC 730: (2020) 2 SCC (Cri) 450: (2020) 2 SCC (Civ) 758: 2017 SCC OnLine SC 1813***, that where the complainant had failed to produce the notice before the learned Trial Court, he could not be permitted to lead the evidence before the learned Appellate Court to prove it. It was observed at page 731:

> "6. We are unable to agree with this approach of the High Court, in the facts of this case, which is inappropriate in law. The service of the statutory notice calling upon the drawer of the cheque (after it has been dishonoured) to pay the amount of the cheque is a necessary precondition for filing the complaint under Section 138 of the Act. Therefore, it was incumbent upon the respondent to produce the said statutory notice on record to prove the same as well. In this case, this document was not even filed by the respondent along with the complaint, and the question of proving the same was, therefore, a far cry. In a case like this, we fail to understand how the aforesaid omission on the part of the respondent in not prosecuting the complaint properly could be ignored, and another chance could have been given to the respondent to prove the case by producing further evidence. It clearly amounts to giving an opportunity to the respondent to fill up the lacuna."

18. It was laid down in ***Rajvinder Singh v. State of Haryana*, *(2016) 14 SCC 671: (2016) 4 SCC (Cri) 421: 2015 SCC***

***OnLine SC 971*** that where it was possible to examine the Forensic Expert at the trial stage, an application to examine him at the appellate stage cannot be allowed. It was observed at page 677

> "12. At the outset, we must deal with submissions as regards the application for leading additional evidence at the appellate stage. It has been the consistent defence of the appellant that the dead body found in agricultural fields in District Muzaffarnagar was that of Pushpa Verma, and he went to the extent of producing a photograph of the dead body in the present trial. He also examined Brahm Pal Singh, Sub-Inspector and other witnesses. It was certainly possible to examine a forensic expert at the trial court stage itself, and the High Court was right and justified in rejecting the prayer to lead additional evidence at the appellate stage. Nonetheless, we have gone through the report of the said forensic expert engaged by the appellant. The exercise undertaken by that expert is to start with the admitted photograph of Pushpa Verma on a computer, then remove the "bindi" by some process on the computer, then by the same process remove her spectacles and by computer imaging change the image as it would have looked if the lady was lying down in an injured condition. The computer image so changed was then compared with the photograph of the dead body. We have seen both the images, and we are not convinced at all about any element of similarity. We do not, therefore, see any reason to differ from the view taken by the High Court."

19. It was held in ***Ajitsinh Chehuji Rathod v. State of Gujarat, (2024) 4 SCC 453: 2024 SCC OnLine SC 77***, that the power under Section 391 of Cr.P.C. can be exercised when the party was prevented from presenting the evidence despite the exercise of

due diligence or the facts giving rise to such prayer came to light during the pendency of the appeal. It was observed at page 455:

> "8. At the outset, we may note that the law is well-settled by a catena of judgments rendered by this Court that the power to record additional evidence under Section 391 Cr.P.C. should only be exercised when the party making such request was prevented from presenting the evidence in the trial despite due diligence being exercised or that the facts giving rise to such prayer came to light at a later stage during pendency of the appeal and that non-recording of such evidence may lead to failure of justice."

20. In the present case, the complainant never asserted in his complaint that the accused had acknowledged the liability by making the payment on 7.10.2016. The complainant's witness, Manoj Kumar (CW-1), had also not asserted this fact. Therefore, there is no material on record in support of the averment that the accused had made the payment on 7.10.2016.

21. In any case, the payment made by the debtor is not sufficient. It was held by this Court in ***Kangra District Wholesale Co-operative Supplies and Marketing Society Limited v. Buta Mal Sohan Lal, 1996 SCC OnLine HP 58*** that a person is required to prove the acknowledgement by the debtor in writing to take the benefit of Section 19 of the Limitation Act to extend the period of limitation by proving the payment of debt. It was observed:

**"11.** The bare reading of the above provision shows that in order to attract the operation of this Section, two essential conditions are:

(i) the payment must be made within the prescribed period of limitation; and

(ii) such payment must be acknowledged by some form of writing either in the handwriting of the payer himself or signed by him.

**12.** The scope of Section 20, Limitation Act, 1908, which corresponds to Section 19, Limitation Act, 1963, came up for consideration before the Hon'ble Apex Court in ***Sant Lal Mahton v. Kamla Prasad, 1951 SCC 1008: AIR 1951 SC 477***, wherein it was held in the following terms:

"It is the payment which really extends the period of limitation under Section 20, Limitation Act; but the payment has got to be proved in a particular way, and for reasons of policy the Legislature insists on a written or signed acknowledgement as the only proof of payment and excludes oral testimony. Unless, therefore, there is acknowledgement in the required form, the payment by itself is of no avail. .... However, while the section requires that payment should be made within the period of limitation, it does not require that the acknowledgement should also be made within that period. To interpret the proviso in that way would be to import into it certain words which do not occur there."

**13.** The Hon'ble Apex Court further held that while it is not necessary that the written acknowledgement should be made prior to expiry of the period of limitation, it is essential that such acknowledgement, whether made before or after the period of limitation, must be in existence prior to the institution of the suit.

**14.** In the said case, before the Hon'ble Apex Court, though there was evidence showing part payment towards the debt, there was no written acknowledgement in support of such part payment by the debtor. In the

written statement filed by the debtor, he had admitted and acknowledged the part payment having been made by him. The Hon'ble Apex Court came to the conclusion that such acknowledgement in the written statement, having been made after the institution of the suit, was of no consequence and would not extend the period of limitation under Section 20, Limitation Act, 1908.

**15.** In ***Syed Jalaluddin Hasan Quadri v. Tarapharmacy represented by its Managing Partner, Tarachand Agarwal, AIR 1966 Andhra Pradesh 136***, it was held that in order to save limitation under Section 19, Limitation Act, 1963 by payment of some money towards the transaction, the payment ought to have been made in writing or under the signature of the debtor. Mere payment recorded by the creditor in the account would not attract Section 19 of the Limitation Act, 1963.

**16.** In ***A. Ramavel v. Pandyan Automobiles Pvt. Ltd., AIR 1973 Madras 359***, where part payment towards the debt was shown to have been made by cheque drawn by the brother-in-law of the debtor, while dealing with the scope of Section 20 of the Limitation Act, 1908, it was held:

> "In order to give a fresh start of limitation under Section 20, the payment should have been acknowledged in writing by the person making the payment. If the payment towards the debt was made by the debtor himself, the writing required is the writing of the debtor. But if the debtor chooses to pay the amount towards the debt through his authorised agent, then the acknowledgement in writing must be by the agent who actually paid the amount towards the debt. But, in this case, the payment was made by the debtor himself, but the cheque was drawn by V.K. Jagannathan, who is stated to be the brother-in-law of the debtor. It is true that, if the cheque had been drawn by the defendant himself in favour of the plaintiff and that payment was accepted by the plaintiff, that cheque would amount to an 'acknowledgement' in

> writing which would give a fresh period of limitation. But, in this case, the cheque was not issued by the defendant (debtor), but it was drawn by V.K. Jagannathan. The payment was actually made by the defendant. Therefore, Section 20 is not complied with in order to get a fresh period of limitation. Section 20 is a special provision which enables the creditor to get a fresh period of limitation when there is an acknowledgement in writing by the debtor. In my opinion, the conditions laid down in this section will have to be strictly complied with, and there is no question of an extension of that principle to any other category of acknowledgement. The acknowledgement in this case is not in conformity with the provisions of Section 20 and, therefore, the plaintiff will not be entitled to a fresh period of limitation from the date of that payment."
>
> **17.** A similar view has been taken by the High Court of Allahabad in ***Maqsoon Khan v. Lala Balwant Prasad, AIR 1982 Allahabad 41***.

22. A similar view was taken in ***Shanti Conductors (P) Ltd. v. Assam SEB, (2020) 2 SCC 677: 2019 SCC OnLine SC 1643,*** wherein it was observed at page 684:

> **15.** Order 7 Rule 6 uses the words "the plaint shall show the ground upon which exemption from such law is claimed". The exemptions provided under Sections 4 to 20 of the Limitation Act, 1963 are based on certain facts and events. Section 19, with which we are concerned, provides for a fresh period of limitation, which is founded on certain facts, i.e. (*i*) whether payment on account of debt or of interest on legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy, (*ii*) an acknowledgement of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.

**16.** We may notice the judgment of this Court dealing with Section 20 of the Limitation Act, 1908, which was akin to the present Section 19 of the Limitation Act, 1963. In ***Sant Lal Mahton v. Kamla Prasad [Sant Lal Mahton v. Kamla Prasad, 1951 SCC 1008: AIR 1951 SC 477]***, this Court held that for the applicability of Section 20 of the Limitation Act, 1908, two conditions were essential: that the payment must be made within the prescribed period of limitation, and it must be acknowledged by some form of writing either in the handwriting of the payer himself or signed by him. This Court further held that for claiming benefit of exemption under Section 20, there has to be pleading and proof. In paras 9 and 10, the following has been laid down : (AIR p. 479)

> "9. It would be clear, we think, from the language of Section 20, Limitation Act, that to attract its operations two conditions are essential: first, the payment must be made within the prescribed period of limitation and secondly, it must be acknowledged by some form of writing either in the handwriting of the payer himself or signed by him. We agree with the Subordinate Judge that it is the payment which really extends the period of limitation under Section 20, Limitation Act; but the payment has got to be proved in a particular way, and for reasons of policy the legislature insists on a written or signed acknowledgement as the only proof of payment and excludes oral testimony. Unless, therefore, there is acknowledgement in the required form, the payment by itself is of no avail. The Subordinate Judge, however, is right in holding that while the section requires that the payment should be made within the period of limitation, it does not require that the acknowledgement should also be made within that period. To interpret the proviso in that way would be to import into it certain words which do not occur there. This is the view taken by almost all the High Courts in India, and to us it seems to be a proper view

> to take. (See ***Mohd. Moizuddin Mia v. Nalini Bala Devi [Mohd. Moizuddin Mia v. Nalini Bala Devi, 1937 SCC OnLine Cal 20 : AIR 1937 Cal 284 : ILR (1937) 2 Cal 137] ; Lal Singh v. Gulab Rai [Lal Singh v. Gulab Rai, 1932 SCC OnLine All 265 : ILR (1933) 55 All 280] , Venkata Subbhu v. Appu Sundaram [Venkata Subbhu v. Appu Sundaram, ILR (1894) 17 Mad 92] , Ram Prasad Babu v. Mohan Lal Babu [Ram Prasad Babu v. Mohan Lal Babu, 1922 SCC OnLine MP 10 : AIR 1923 Nag 117]*** and ***Vishwanath Raghunath Kale v. Mahadeo Rajaram Saraf [Vishwanath Raghunath Kale v. Mahadeo Rajaram Saraf, 1933 SCC OnLine Bom 3 : ILR (1933) 57 Bom 453]*** .)
>
> *10*. ... If the plaintiff's right of action is apparently barred under the statute of limitation, Order 7 Rule 6, Civil Procedure Code makes it his duty to state specifically in the plaint the grounds of exemption allowed by the Limitation Act, upon which he relies to exclude its operation; and if the plaintiff has got to allege in his plaint the facts which entitle him to exemption, obviously these facts must be in existence at or before the time when the plaint is filed; facts which come into existence after the filing of the plaint cannot be called in aid to revive a right of action which was dead at the date of the suit. To claim exemption under Section 20, Limitation Act, the plaintiff must be in a position to allege and prove not only that there was payment of interest on a debt or part-payment of the principal, but that such payment had been acknowledged in writing in the manner contemplated by that section."

23. In the present case, no written acknowledgement was produced, and the mere production of a statement of account containing payment is not sufficient.

2026:HHC:49920

24. It is undisputed that the statement of account was filed before the learned Trial Court; however, it was not exhibited. It has been asserted that the document could not be exhibited inadvertently, which does not amount to sufficient cause. It was held by this Court in ***Pohu Lal v. Kamla Devi, 2001 (2) Shim. LC 384,*** that inadvertence is a form of negligence. Therefore, the application does not disclose any exercise of due diligence.

25. Further, the statement of account shows that there is an entry of "TFR from DDS-406", which shows that the amount was not paid by the debtor/accused, but was transferred from some other account. Section 19 of the Limitation Act provides that the payment should have been made by the debtor before it can extend the period of limitation. Therefore, the requirement laid down under Section 19 of the Limitation Act is not satisfied. Therefore, the document, even if taken on record, would not assist the Court in determining the dispute pending before the Court, and the application for additional evidence cannot be allowed.

26. The complainant specifically asserted in the complaint that the accused had taken a loan of ₹1,25,000/- on 29.9.2014. Article 19 of the Limitation Act deals with the limitation for money payable for money lent and prescribes the period of three years from the date when the amount is paid. Therefore, the period of limitation had expired on 28.9.2017, and the cheque issued on 11.4.2019 was towards a time-barred debt. Learned Courts below had rightly held that a cheque issued towards the repayment of a time-barred debt was not towards a legally enforceable debt. They had rightly relied upon the judgment of this Court in ***Social Leasing (India) Ltd. v. Rajan Kumar Kanthwal, 2025 SCC OnLine HP 3131***, and the conclusion of the learned Courts below cannot be faulted.

27. It was submitted that Section 49 of the H.P. Cooperative Societies Act excludes the provisions of the Limitation Act and the learned Courts below erred in applying the provisions of the Limitation Act to the present case. This submission is only stated to be rejected. It was laid down by this Court in ***Jogindera Central Cooperative Bank Ltd. vs. Addl. Registrar (Mon.) Cooperative Societies and Ors. (19.05.2025-HPHC): MANU/ HP/ 0751/2025*** that Section 49 of the Cooperative Societies Act

2026:HHC:49920

excludes the provisions of limitation regarding Sections 69, 73, and 88 of the Act, and the provisions of limitation would apply to all other acts. It was observed:

> 11. A perusal of Section 49 of the Act of 1968 would make it crystal clear that the provisions of the Limitation Act have been excluded in its applicability only qua Sections 69, 73 and 88 of the Act of 1968. Meaning thereby that the provisions of the Limitation Act, excluding the aforesaid Sections, would be applicable to all the other provisions of the Act of 1968, including the appeals and reviews filed thereunder.
>
> 12. The legislature has taken a conscious decision by excluding the provisions of the Limitation Act only to three sections of the Act of 1968 and making other provisions applicable as contained in the Act of 1968. Meaning, thereby, that from the scheme of the Act of 1968, it can be found that the legislative intent was not to exclude the applicability of the provisions of the Limitation Act. There cannot be any dispute to the proposition that if the legislative scheme of special or local law indicates that enactment intended applicability of Section 5 of the Limitation Act, then Section 5 of the Limitation Act shall be applicable independent with operation of Section 29 thereof.
>
> xxxxxx
>
> 18. In view of aforesaid discussions and for the reasons stated hereinabove, findings regarding non-applicability of the provisions of Limitation Act including Section 5 thereof to the proceedings conducted under the Act of 1968 more particularly Section 93 and Rules framed thereunder are perverse and accordingly set aside and it is specially held that the provisions of the Limitation Act in terms of Section 49 of the Act of 1968 are excluded to its applicability to proceedings taken under Sections 69, 73 and 88 of the Act of 1968 and are not applicable to all

other provisions of the Act of 1968 including Sections 93, 94 etc. The questions of law are answered accordingly.

28. In the present case, the proceedings have not been initiated under Sections 69, 73, or 88 of the H.P. Cooperative Societies Act; hence, Section 49 does not apply to the present proceedings.

29. Therefore, there is no infirmity in the judgments passed by the learned Courts below, and the present revision fails and is dismissed.

30. The present revision stands disposed of, so also the pending miscellaneous application(s), if any.

31. A copy of the judgment, along with records of the learned Courts below, be sent back forthwith.

**(Rakesh Kainthla)**
**Judge**

19th November, 2026
(Chander)