2026:AHC:39262

Reserved on 06.01.2026
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A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 50246 of 2025

Brijesh Kumar

…..Applicant(s)

Versus

State of U.P. and another

…..Opposite Party(s)

Counsel for Applicant(s)	:	Binod Kumar Yadav, Raj Nath Bhakta
Counsel for Opposite Party(s)	:	G.A.

Court No. - 36

HON'BLE SATYA VEER SINGH, J.

1. Heard Mr Raj Nath Bhakta, learned counsel for the applicant, Mr. Subhendra Singh along with Mr B.P. Pandey, learned A.G.A. for the State and perused the record.

2. The present application under Section 528 BNSS, 2023 has been filed with the prayer to quash the impugned judgment and order dated 16.10.2025 passed by the learned Judicial Magistrate, Court No. 22, Azamgarh, in Misc. Case No. 3817 of 2024 (Anand Kumar vs. Brajesh Kumar), under Section 138 The Negotiable Instruments Act, 1881 (hereinafter referred as N.I. Act), Police Station Kotwali, District Azamgarh. It is further prayed that the Hon’ble Court may be pleased to quash the entire proceeding of Misc. Case No. 3817 of 2024 (Anand Kumar vs. Brijesh Kumar), under Section 138 N. I Act, Police Station - Kotwali, District - Azamgarh, pending in the court of learned Judicial Magistrate, Court No.22, Azamgarh, during pendency of the present application, otherwise applicant shall suffer irreparable loss and injury.

3. Learned counsel for the applicant submits that the application dated 08.09.2025 has been rejected by the impugned order dated 16.10.2025. It is further submitted that the impugned order is illegal as no proper opportunity was provided to produce the defence evidence; therefore, the impugned order is not sustainable in the eyes of law and is liable to be quashed.

4. By the impugned order dated 16.10.2025, the trial court rejected the application filed by the applicant-accused with the prayer to reject the order dated 18.08.2025, by which further opportunity to produce evidence was closed, i.e. production of the report of the verification of writing and signature by the expert for the just decision of the case. The relevant portion of the order dated 16.10.2025 is reproduced below:-

> *"सुना व पत्रावली का अवलोकन किया।*
>
> *पत्रावली के अवलोकन से यह विदित है कि दिनांक 18.04.2023 को न्यायालय के समक्ष अभियुक्त के हस्ताक्षर का नमूना लिया गया था परन्तु अभियुक्त द्वारा पैरवी के अभाव में हस्तलेख विशेषज्ञ का परिणाम प्रस्तुत नहीं किया गया। न्यायालय द्वारा आदेश दिनांक 30.06.2025 के माध्यम से हस्तलेख विशेषज्ञ को पुनः रिमान्डर (अनुस्मारक) जारी करने हेतु पैरवी का आदेश किया गया था, परन्तु अभियुक्त की ओर से कोई पैरवी उपरोक्त आदेश पर नहीं की गयी। न्यायालय द्वारा पुनः पैरवी हेतु दिनांक 21.07.2025 को अन्तिम अवसर के साथ अभियुक्त को निर्देशित किया गया था परन्तु अभियुक्त द्वारा उपरोक्त आदेश का भी अनुपालन नहीं किया गया। न्यायालय द्वारा दिनांक 18.08.2025 को अदम पैरवी साक्ष्य का अवसर समाप्त किया गया। अतः अभियुक्त द्वारा प्रस्तुत प्रार्थना पत्र बिना किसी आधार के आदेश दिनांक 18.08.2025 को निरस्त किये जाने का प्रार्थना पत्र प्रस्तुत किया गया है जो कि आधारहीन है और निरस्त किये जाने योग्य है।*
>
> *आदेश*
>
> *विपक्षी द्वारा प्रस्तुत-प्रार्थना पत्र खारिज किया जाता है। तद्नुसार आपत्ति निस्तारित की जाती है। पत्रावली वास्ते परिवादी बहस दिनांक 04.11.2025 को पेश हो।"*

5. Per contra, Learned A.G.A. submits that the proceedings under Section 138 N.I. Act are summary proceedings. Therefore, the proceeding should be concluded expeditiously within six months and has placed reliance on various judgments of the Hon’ble Supreme Court, namely: ***Damodar S. Prabhu vs. Sayed Babalal H., (2010) 5 SCC 663, Indian Bank Association and Ors. vs. Union of India and Ors., (2014) 5 SCC 590, Meters and Instruments Pvt. Ltd. & Anr. vs. Kanchan Mehta, (2018) 1 SCC 560, Makwana Mangaldas Tulsidas vs. State of Gujarat and Ors, (2020) 4 SCC 695*** and ***In Re: Expeditious Trial of Cases Under Section 138 N.I. Act (Suo Motu Writ Petition (Criminal) No. 2 of 2020)***.

6. Considering the submissions, it is an admitted fact that a complaint under section 138 N.I. Act was filed in the year 2013, and since then, the said complaint has been pending. More than 12 years have already passed, rendering this case a stark exemplification of inordinate delay in the adjudication of a summary trial. Such protracted pendency constitutes a gross abuse of the process of Court in summary trial cases.

7. In the old code, i.e. Code of Criminal Procedure, 1973 (Now repealed), summary trials were introduced in Chapter XXI from Section 260 to 265, and the summary trials have been provided in the new code, i.e. BNSS, 2023, in Chapter XXII from Section 283 to 288.

8. So far as the cases under the N.I. Act are concerned with expeditious disposal, the legislature, in its wisdom, introduced the provision for summary trial by way of amendment in the year 2002. Section 143 was inserted by Act 55 of 2002, and by the same amendment act, Sections 144 and 145 were also inserted. Sections 143 to 145 of the N.I. Act are reproduced below :-

> *"[**143**. Power of Court to try cases summarily.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) all offences under this Chapter shall be tried by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trials:*
>
> *Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year and an amount of fine exceeding five thousand rupees:*
>
> *Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.*
>
> *(2) The trial of a case under this section shall, so far as practicable, consistently with the interests of justice, be continued from day to day until its conclusion, unless the Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded in writing.*
>
> *(3) Every trial under this section shall be conducted as expeditiously as possible and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint.*

*[**143A**. Power to direct interim compensation.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant—*

(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and

(b) in any other case, upon framing of charge.

(2) The interim compensation under sub-section (1) shall not exceed twenty per cent of the amount of the cheque.

(3) The interim compensation shall be paid within sixty days from the date of the order under sub-section (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.

(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973 (2 of 1974).

(6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973 (2 of 1974), shall be reduced by the amount paid or recovered as interim compensation under this section.]

*[**144**. Mode of service of summons.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) and for the purposes of this Chapter, a Magistrate issuing a summons to an accused or a witness may direct a copy of summons to be served at the place where such accused or witness ordinarily resides or carries on business or personally works; for gain, by speed post or by such courier services as are approved by a Court of Session.*

(2) Where an acknowledgment purporting to be signed by the accused or the witness or an endorsement purported to be made by any person authorised by the postal department or the courier services that the accused or the witness refused to take delivery of summons has been received, the Court issuing the summons may declare that the summons has been duly served.]

***145**. Evidence on affidavit.—(1)Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the evidence of the complainant may be given by him on affidavit and may, subject to all just exceptions be read in evidence in any enquiry, trial or other proceeding under the said Code.*

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any person giving evidence on affidavit as to the facts contained therein."

9. As per the intent of legislation under Section 143 to conduct a trial so far as applicable consistently with the interest of justice, it is to be continued from day to day until its conclusion. Unless the Court finds

the adjournment of the trial beyond the following day to be necessary for reasons to be recorded in writing, and in Section 143, the intent of legislation is to conclude the trial as expeditiously as possible, and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint. The above-mentioned provisions are also intended to make the transaction smoother by using cheques instead of cash and to protect the commercial rights of the parties and save time from long litigation, as litigation between the parties is the worst position in business transactions and development and is a loss of mental peace. These provisions are intended to secure justice within a reasonable time and protect the rights of both parties, and are consistent with the concept of a speedy trial, i.e., a fundamental right of the litigant.

10. Under Section 145, i.e. evidence on affidavit is also to save the valuable time of the litigants and the Court; therefore, the trial courts are duty-bound to follow the above-mentioned provisions strictly.

11. The N.I. Act is a special act. The summary trial in N.I. Act is for quick disposal. The intent of the legislation is to try the cases on a day-to-day basis until their conclusion, as expeditiously as possible, within six months, and the object is to facilitate smooth transactions by cheque.

12. The Apex Court in the case of ***Suo Motu Writ Petition (Crl.) No. 02 of 2020*** titled as ***In Re: Expeditious Trial of Cases Under Section 138 of N.I. Act ,[(2021) 16 SCC 116]***, pleased to issue various directions regarding the conduct of trials of complaints under Section 138 of N.I. Act. Para 24 of the said judgment is reproduced below :-

> *"24. The upshot of the above discussion leads us to the following conclusions:*
>
> *24.1. The High Courts are requested to issue practice directions to the Magistrates to record reasons before converting trial of complaints under Section 138 of the Act from summary trial to summons trial.*
>
> *24.2. Inquiry shall be conducted on receipt of complaints under Section 138 of the Act to arrive at sufficient grounds to proceed against the accused, when such accused resides beyond the territorial jurisdiction of the court.*
>
> *24.3. For the conduct of inquiry under Section 202 of the Code, evidence of witnesses on behalf of the complainant shall be permitted to be taken on affidavit. In suitable cases, the Magistrate can restrict the inquiry to examination of documents without insisting for examination of witnesses.*

24.4. We recommend that suitable amendments be made to the Act for provision of one trial against a person for multiple offences under Section 138 of the Act committed within a period of 12 months, notwithstanding the restriction in Section 219 of the Code.

24.5. The High Courts are requested to issue practice directions to the trial courts to treat service of summons in one complaint under Section 138 forming part of a transaction, as deemed service in respect of all the complaints filed before the same court relating to dishonour of cheques issued as part of the said transaction.

24.6. Judgments of this Court in ***Adalat Prasad*** *(supra) and* ***SubramaniumSethuraman*** *(supra) have interpreted the law correctly and we reiterate that there is no inherent power of trial courts to review or recall the issue of summons. This does not affect the power of the trial court under Section 322 of the Code to revisit the order of issue of process in case it is brought to the court's notice that it lacks jurisdiction to try the complaint.*

24.7. Section 258 of the Code is not applicable to complaints under Section 138 of the Act and findings to the contrary in Meters and Instruments (supra) do not lay down correct law. To conclusively deal with this aspect, amendment to the Act empowering the Trial Courts to reconsider/recall summons in respect of complaints under Section 138 shall be considered by the Committee constituted by an order of this Court dated 10.03.2021.

24.8. All other points, which have been raised by the Amici Curiae in their preliminary report and written submissions and not considered herein, shall be the subject-matter of deliberation by the aforementioned Committee. Any other issue relating to expeditious disposal of complaints under Section 138 of the Act shall also be considered by the Committee."

13. For compliance with directions issued in ***In Re: Expeditious Trial of Cases under Section 138 of N.I. Act*** (supra), a circular letter was issued bearing Letter No. 10383/2022/Admin G-II/ Allahabad/ Dated : 23.08.2022, having Sub : For compliance of directions issued by Hon'ble Court with regard to expeditious disposal of cases under Section 138 N.I. Act 1881 addressed to all the District Judges subordinate to the High Court of Judicature at Allahabad.

14. The Hon'ble Apex Court in the case of ***Sanjabij Tari vs. Kishore S. Borcar & Anr. (Criminal Appeal No. 1755 of 2010)*** decided on 25.09.2025, took into consideration the substantial backlog and protracted pendency of complaints u/s 138 of the NI Act, and issued the following guidelines :-

"KEEPING IN VIEW THE MASSIVE BACKLOG OF CHEQUE BOUNCING CASES, THE FOLLOWING GUIDELINES ARE ISSUED

33. Before parting with this matter, this Court takes judicial notice of the fact that despite repeated directions by this Court in various judgments including ***Indian Bank Association and Ors. v. Union of India and Ors., (2014) 5 SCC 590, Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663 and***

In Re: Expeditious Trial of cases Under Section 138 of NI Act 1881, (2021) 16 SCC 116*, pendency of cheque bouncing cases under the NI Act in District Courts in major metropolitan cities of India continues to be staggeringly high. For instance, the pendency of Section 138 cases as on 01st September 2025 in Delhi District Courts is 6,50,283 (Six Lakhs Fifty Thousand Two Hundred Eighty Three), Mumbai District Courts is 1,17,190 (One Lakh Seventeen Thousand One Hundred Ninety) and Calcutta District Courts is 2,65,985 (Two Lakhs Sixty Five Thousand Nine Hundred Eighty Five) [Source: National Judicial Data Grid]. This pendency is putting an unprecedented strain on the judicial system as in some States, cases Under Section 138 of the NI Act constitute nearly fifty per cent (50%) of the pendency in Trial Court (in Delhi Section 138 NI Act cases constitute 49.45% of total Trial Court pendency).*

34. In ***P. Mohanraj and Others v. Shah Brothers Ispat Private Limited, (2021) 6 SCC 258****, this Court while re-iterating the position of law with regard to the nature of offence Under Section 138 of the NI Act, has held as under:*

> *"53. A perusal of the judgment in Ishwarlal Bhagwandas [S.A.L. Narayan Row v. Ishwarlal Bhagwandas, (1966) 1 SCR 190: AIR 1965 SC 1818] would show that a civil proceeding is not necessarily a proceeding which begins with the filing of a suit and culminates in execution of a decree. It would include a revenue proceeding as well as a writ petition filed Under Article 226 of the Constitution, if the reliefs therein are to enforce rights of a civil nature. Interestingly, criminal proceedings are stated to be proceedings in which the larger interest of the State is concerned. Given these tests,* ***it is clear that a Section 138 proceeding can be said to be a "civil sheep" in a "criminal wolf's" clothing, as it is the interest of the victim that is sought to be protected, the larger interest of the State being subsumed in the victim alone moving a court in cheque bouncing cases****, as has been seen by us in the analysis made hereinabove of Chapter XVII of the Negotiable Instruments Act.*
>
> *(emphasis supplied)*

35. Admittedly, the offence Under Section 138 of the NI Act is quasi-criminal in character and is compoundable [See: ***Damodar S. Prabhu*** *(supra)]. Recently, in* ***Gian Chand Garg v. Harpal Singh and Anr. (Criminal Appeal No. 3789 of 2025*** *dated 11th August 2025), a co-ordinate Bench of this Court has set aside concurrent convictions rendered by the Courts below on the ground that the proceeding Under Section 138 of the NI Act is essentially a civil proceeding and it is open to the parties to enter into a voluntary compromise. Consequently, this Court is of the view that not only a voluntary compromise can bring the proceedings Under Section 138 NI Act to an end, but the accused under the said offence are entitled to benefit under the Probation of Offenders Act, 1958 [See:* ***Chellammal& Another vs. State Represented by the Inspector of Police, 2025 SCC OnLine SC 870****]. Observations to the contrary by Kerala HC in* ***M.V. Nalinakshan v. M. Rameshan and Anr. 2009 All MR (Cri) Journal 273*** *are set aside.*

36. Keeping in view the massive backlog of cheque bouncing cases and the fact that service of summons on the accused in a complaint filed Under Section 138 of the NI Act continues to be one of the main reasons for the delay in disposal of the complaints as well as the fact that punishment under the NI Act is not a means of seeking retribution but is more a means to ensure payment of money and to promote credibility of cheques as a trustworthy substitute for cash payment, this Court issues the following directions:-

A. In all cases filed Under Section 138 of the NI Act, service of summons shall not be confined through prescribed usual modes but shall also be issued dasti i.e. summons shall be served upon the accused by the complainant in addition. This direction is necessary as a large number of Section 138 cases under the NI Act are filed in the metropolitan cities by financial institutions, by virtue of Section 142(2) of the NI Act, against accused who may not be necessarily residing within the territorial jurisdiction of the Court where the complaint has been filed. The Trial Courts shall further resort to service of summons by electronic means in terms of the applicable Notifications/Rules, if any, framed under sub-Sections 1 and 2 of Section 64 and under Clause (i) of Section 530 and other provisions of the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS, 2023') like Delhi BNSS (Service of Summons and Warrants) Rules, 2025. For this purpose, the complainant shall, at the time of filing the complaint, provide the requisite particulars including e-mail address, mobile number and/or WhatsApp number/messaging application details of the accused, duly supported by an affidavit verifying that the said particulars pertain to the accused/respondent.

B. The complainant shall file an affidavit of service before the Court. In the event such affidavit is found to be false, the Court shall be at liberty to take appropriate action against the complainant in accordance with law.

C. In order to facilitate expeditious settlement of cases Under Section 138 of the NI Act, the Principal District and Sessions Judge of each District Court shall create and operationalise dedicated online payment facilities through secure QR codes or UPI links. The summons shall expressly mention that the Respondent/Accused has the option to make payment of the cheque amount at the initial stage itself, directly through the said online link. The complainant shall also be informed of such payment and upon confirmation of receipt, appropriate orders regarding release of such money and compounding/closure of proceedings Under Section 147 of the NI Act and/or Section 255 of Cr.P.C./278 BNSS, 2023 may be passed by the Court in accordance with law. This measure shall promote settlement at the threshold stage and/or ensure speedy disposal of cases.

D. Each and every complaint Under Section 138 of the NI Act shall contain a synopsis in the following format which shall be filed immediately after the index (at the top of the file) i.e. prior to the formal complaint:

Complaint Under Section 138 of the Negotiable Instruments Act, 1881

I. Particulars of the Parties

(i) Complainant: _____

(ii) Accused: _____

(In case where the Accused is a company or a firm then Registered Address, Name of the Managing Director/Partner, Name of the signatory, Name of the persons vicariously liable)

II. Cheque Details

(i) Cheque No. _____

(ii) Date: _____

(iii) Amount: _____

(iv) Drawn on Bank/Branch: _____

(v) Account No.: _____

III. Dishonour

(i) Date of Presentation: _____

(ii) Date of Return/Dishonour Memo: _____

(iii) Branch where cheque was dishonoured: _____

(iv) Reason for Dishonour: _____

IV. Statutory Notice

(i) Date of Notice: _____

(ii) Mode of Service: _____

(iii) Date of Dispatch & Tracking No.: _____

(iv) Proof of Delivery & date of delivery: _____

(v) Whether served: _____

(vii) Reply to the Legal Demand Notice, if any _____

V. Cause of Action

(i) Date of accrual: _____

(ii) Jurisdiction invoked Under Section 142(2): _____

(iii) Whether any other complaint Under Section 138 NI Act is pending between the same parties, If Yes, in which court and the date and year of the institution.

VI. Relief Sought

(i) Summoning of Accused and trial Under Section 138 NI Act

_____

(ii) Whether Award of Interim compensation Under Section 143A of NI Act sought _____

VII. Filed through:

Complainant/Authorized Representative

*E. Recently, the High Court of Karnataka in **Ashok v. FayazAahmad 2025 SCC OnLine Kar 490** has taken the view that since NI Act is a special enactment, there is no need for the Magistrate to issue summons to the Accused before taking cognizance (Under Section 223 of BNSS) of complaints filed Under Section 138 of NI Act. This Court is in agreement with the view taken by the High Court of Karnataka. Consequently, this Court directs that there shall be no requirement to issue summons to the Accused in terms of Section 223 of BNSS i.e., at the pre-cognizance stage.*

*F. Since the object of Section 143 of the NI Act is quick disposal of the complaints Under Section 138 by following the procedure prescribed for summary trial under the Code, this Court reiterates the direction of this Court in I**n Re: Expeditious Trial of cases Under Section 138 of NI Act** (supra) that the Trial Courts shall record cogent and sufficient reasons before converting a summary trial to summons trial.*

To facilitate this process, this Court clarifies that in view of the judgment of the Delhi High Court in ***Rajesh Agarwal v. State and Anr., 2010 SCC OnLine Del 2511****, the Trial Court shall be at liberty (at the initial post cognizance stage) to ask questions, it deems appropriate, Under Section 251 Code of Criminal Procedure/Section 274 BNSS, 2023 including the following questions:*

(i) Do you admit that the cheque belongs to your account? Yes/No

(ii) Do you admit that the signature on the cheque is yours? Yes/No

(iii) Did you issue/deliver this cheque to the complainant? Yes/No

(iv) Do you admit that you owed liability to the complainant at the time of issuance? Yes/No

(v) If you deny liability, state clearly the defence:

(a) Security cheque only;

(b) Loan repaid already;

(c) Cheque altered/misused;

(d) Other (specify).

(vi) Do you wish to compound the case at this stage? Yes/No

G. The Court shall record the responses to the questions in the order-sheet in the presence of the accused and his/her counsel and thereafter determine whether the case is fit to be tried summarily under Chapter XXI of the Cr.P.C./Chapter XXII of the BNSS, 2023.

H. Wherever, the Trial Court deems it appropriate, it shall use its power to order payment of interim deposit as early as possible under Section 143A of the NI Act.

I. Since physical courtrooms create a conducive environment for direct and informal interactions encouraging early resolution, the High Courts shall ensure that after service of summons, the matters are placed before the physical Courts. Exemptions from personal appearances should be granted only when facts so warrant. It is clarified that prior to the service of summons the matters may be listed before the digital Courts.

J. Wherever cases Under Section 138 of the NI Act are permitted to be heard and disposed of by evening courts, the High Courts should ensure that pecuniary limit of the cheque amount is realistic. For instance, in Delhi, the jurisdiction of the evening courts to hear and decide cases of cheque amount is not exceeding Rs. 25,000/-. In the opinion of this Court, the said limit is too low. The High Courts should forthwith issue practice directions and set up realistic pecuniary benchmarks for evening Courts.

K. Each District and Sessions Judge in Delhi, Mumbai and Calcutta shall maintain a dedicated dashboard reflecting the pendency and progress of cases Under Section 138 of the NI Act. The dashboard shall include, inter alia, details regarding total pendency, monthly disposal rates, percentage of cases settled/compounded, average number of adjournments per case and the stage-wise breakup of pending matters. The District and Sessions Judges in aforesaid jurisdictions shall conduct monthly reviews of the functioning of Magistrates handling NI Act matters. A consolidated quarterly report shall be forwarded to the High Court.

L. The Chief Justices of Delhi, Bombay and Calcutta are requested to form Committee on the Administrative side to monitor pendency and to ensure expeditious disposal of Section 138 of the NI Act cases. These Committees should meet at least once a month and explore the option of appointing experienced Magistrates to deal with Section 138 of the NI Act cases as well as promoting mediation, holding of LokAdalats and other alternative dispute resolution mechanisms in Section 138 NI Act cases.

37. It is pertinent to mention that this Court framed guidelines for compounding offences under the NI Act nearly fifteen years back in ***Damodar S. Prabhu*** *(supra). The relevant portion of the said judgment is reproduced hereinbelow:*

THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the writ of summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.

XXXXXXXXX

24. We are also conscious of the view that the judicial endorsement of the above quoted Guidelines could be seen as an act of judicial law-making and therefore an intrusion into the legislative domain. It must be kept in mind that Section 147 of the Act does not carry any guidance on how to proceed with the compounding of offences under the Act. We have already explained that the scheme contemplated under Section 320 Cr.P.C. cannot be followed in the strict sense. In view of the legislative vacuum, we see no hurdle to the endorsement of some suggestions which have been designed to discourage litigants from unduly delaying the composition of the offence in cases involving Section 138 of the Act.

25. The graded scheme for imposing costs is a means to encourage compounding at an early stage of litigation. In the status quo, valuable time of the court is spent on the trial of these cases and the parties are not liable to pay any court fee since the proceedings are

governed by the Code of Criminal Procedure, even though the impact of the offence is largely confined to the private parties. Even though the imposition of costs by the competent court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. The competent court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance. Bona fide litigants should of course contest the proceedings to their logical end.

26. Even in the past, this Court has used its power to do complete justice Under Article 142 of the Constitution to frame guidelines in relation to the subject-matter where there was a legislative vacuum."

38. Since a very large number of cheque bouncing cases are still pending and interest rates have fallen in the last few years, this Court is of the view that it is time to 'revisit and tweak the guidelines'. Accordingly, the aforesaid guidelines of compounding are modified as under:

(a) If the accused pays the cheque amount before recording of his evidence (namely defence evidence), then the Trial Court may allow compounding of the offence without imposing any cost or penalty on the accused.

(b) If the accused makes the payment of the cheque amount post the recording of his evidence but prior to the pronouncement of judgment by the Trial Court, the Magistrate may allow compounding of the offence on payment of additional 5% of the cheque amount with the Legal Services Authority or such other Authority as the Court deems fit.

(c) Similarly, if the payment of cheque amount is made before the Sessions Court or a High Court in Revision or Appeal, such Court may compound the offence on the condition that the accused pays 7.5% of the cheque amount by way of costs.

(d) Finally, if the cheque amount is tendered before this Court, the figure would increase to 10% of the cheque amount.

39. This Court is of the view that if the Accused is willing to pay in accordance with the aforesaid guidelines, the Court may suggest to the parties to go for compounding. If for any reason, the financial institutions/complainant asks for payment other than the cheque amount or settlement of entire loan or other outstanding dues, then the Magistrate may suggest to the Accused to plead guilty and exercise the power Under Section 255(2) and/or 255(3) of the Cr.P.C. or 278 of the BNSS, 2023 and/or give the benefit under the Probation of Offenders Act, 1958 to the Accused."

15. For the compliance of these above mentioned guidelines issued by Hon'ble Apex Court, a circular Letter No. 14295 2025/Admin G-II/ Allahabad, Dated 04.11.2025 has been circulated with the judgment of Hon'ble Apex Court addressed to all the District Judges, Principal Judges of Family Courts & Presiding Officers of MACTs, LARRAs and Commercial Courts of State of Uttar Pradesh with the request to circulate the same amongst all the Judicial Officers working under their kind supervision and Administrative control for information and

necessary compliance and the copy of the judgment was also sent to the Director, Judicial Training & Research Institute, Lucknow for information.

16. Guidelines issued by Hon'ble Apex Court in the Case of ***Sanjabij Tari vs. Kishore S. Borcar & Anr.*** (Supra) are to be followed by the Courts/Magistrates handling N.I. Act matters strictly in its letter and spirit.

17. Reverting to the merits of the case, considering the arguments of learned counsel for the parties and after perusing the record, this Court finds that there is no need to issue notice to opposite party no. 2 at this stage. As per the record, the complaint under Section 138 N.I. Act has been filed on 01.02.2013 which is annexed as Annexure No. 1 to the application, and as per Annexure No. 4, it reflects that the statement of the accused applicant has been recorded on 30.07.2021 and on the last questionnaire, the accused applicant has been asked as below :-

"प्रश्न-४-क्या आपको कुछ कहना है?

उत्तर- सफाई साक्ष्य प्रस्तुत करनाहै"

18. On query, learned counsel for the applicant has replied that no document could be filed in defence after 30.07.2021 till the filing of this petition.

19. On perusal of the impugned order, it appears that the first application was given on 11.08.2022, followed by the second application on 10.01.2023 and upon that application, on 18.04.2023, the expert obtained a sample signature of the accused, but after that, the accused-applicant did not pursue and ultimately after giving so many reminders, the opportunity of the accused-applicant was closed. It further appears that the examination-in-chief and cross-examination were concluded, and also the statement of the accused-applicant under Section 313 Cr.P.C. was recorded. Much later, the application for a further opportunity to produce evidence was filed on 08.09.2025, which was rejected by the impugned order dated 16.10.2025.

20. On perusal of the records annexed as annexure to the affidavit filed in support of the application, in the present matter, the complaint under Section 138 N.I. Act was filed on 01.02.2013, and now 2026 is running. Almost 13 years have passed. In the hallowed pursuit of justice, the maxim "*In diem vivere in lege sunt detestabilis*" stands as an eternal rebuke to protracted litigation and signifies that unnecessary procrastination or stalling tactics in legal proceedings are abhorrent to justice. Such tardiness not only erodes public confidence but also renders the law an instrument of distress rather than relief. In this context, the words of William Shakespeare ring true: "Defer no time; delays have dangerous ends." Such prolonged legal proceedings starkly illustrate the maxim 'Justice Delayed is Justice Denied'. Furthermore, such delays also run counter to the essence of the right to speedy trial under Article 21 of the Constitution of India, 1950.

21. In view of the above discussion, this Court finds no illegality or irregularity in the impugned order as more than sufficient opportunities of defence were provided by the trial court. Therefore, the prayer for quashing the impugned judgment and order dated 16.10.2025, as well as to quash the entire proceeding is refused. This Court is of the considered view that such matters which are affected by unnecessary delay at the ends of the parties should be expedited, and an endeavour should be made to dispose of them within the statutory period unless there are orders of the higher courts staying the proceeding. This judgment be placed before the learned District and Sessions Judge concerned. The office to do needful.

22. With the above observation and directions, the application is finally disposed of.

(Satya Veer Singh,J.)

February 20, 2026
sailesh