

CRR-1131-2025 (O&M)

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CNR No: PHHC010665432025

2026:PHHC:108629



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(258)

CRR-1131-2025 (O&M)

Date of decision : 10.08.2026

TARSEM CHAND KANSAL

... Petitioner

Versus

RAVI KUMAR

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rahil Mahajan, Advocate for the petitioner

Mr. K.S. Brar, Advocate for the respondent

MANISHA BATRA, J.

1. The instant revision petition has been preferred by the petitioner against the judgment of conviction and order on quantum of sentence, both dated 25.11.2019, passed by the Court of Learned Judicial Magistrate First Class, Bathinda in criminal complaint bearing CIS No.COMA-2843-20108 titled as *Ravi Kumar Vs. Tarsem Chand Kansal*, whereby the present petitioner had been held guilty and convicted under Section 138 of the Negotiable Instruments Act, 1881 (For short "NI Act") as well as the judgment dated 08.04.2025 passed by the Court of Learned Additional Sessions Judge, Bathinda, whereby the findings as given by the Learned Trial Court vide judgment dated 25.11.2019 were upheld and appeal was dismissed.

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned complaint was filed by the respondent-complainant

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against the petitioner, on the allegations that the petitioner had borrowed a sum of Rs.5 lakhs from Desh Raj Singla and Ravi Kumar in January, 2012. To discharge his legally enforceable liability, he had issued a cheque for a sum of Rs.5 lakhs in favour of the respondent. The said cheque had been dishonoured with the remarks “*account closed*” on 22.03.2013. A legal notice was served upon the petitioner but he failed to make payment of the amount of the cheque, thereby compelling the respondent to file the aforementioned complaint. On the basis of the preliminary evidence adduced by the respondent, the petitioner was ordered to be summoned to face trial for commission of offence punishable under Section 138 of the NI Act.

3. On his appearance, notice of accusation was served upon him to which he pleaded not guilty and claimed trial.

4. In order to prove his case, the respondent himself had appeared as CW1 besides placing reliance upon certain documents and then his evidence was closed.

5. Statement of the petitioner under Section 313 of Cr.P.C. was recorded, wherein he denied issuance of any cheque and claimed that a blank cheque had been given by him to Desh Raj Singla as a security during the course of business dealings and the said cheque had been misused by the respondent. He also claimed false implication.

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6. In defence evidence, the petitioner examined 07 witnesses and also relied upon documentary evidence.

7. On appraising the evidence produced on record and hearing the contentions raised by both the sides, the petitioner had been held guilty and convicted by the Learned Trial Court vide judgment dated 25.11.2019. As already discussed, appeal filed by him has also been dismissed.

8. It is argued by learned counsel for the petitioner that the impugned judgments and order on quantum of sentence are not sustainable in the eyes of law and are liable to be set aside. It is argued that the Learned Trial Magistrate as well the Appellate Court failed to appreciate the evidence produced by him on record in a proper perspective. It was well proved on record that the cheque in question was a blank cheque which alongwith some other blank cheques was in possession of Desh Raj Singla, with whom the petitioner had business dealings in the year 2006-2007. It is submitted that the respondent was an employee of Desh Raj Singla and the cheque in question was handed over to him by Desh Raj Singla to misuse the same and leading to initiation of the proceedings of the complaint. It is submitted that the statements of CW2-Desh Raj Singla and the respondent-complainant were totally contradictory and proved that no cheque had ever been given by the petitioner to the respondent.

9. It is further argued by learned counsel for the petitioner that as no legally enforceable liability existed qua the respondent, therefore, the petitioner could not have been held guilty and convicted under Section 138 of the NI Act.

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It is submitted that an amount of Rs.5 lakhs has been deposited by the petitioner in compliance of directions issued by this Court on 21.08.2025 with the Registry of this Court. It is argued that the respondent-complainant categorically admitted during cross-examination that an amount of Rs.3 lakhs had been given by the respondent to the petitioner and an amount of Rs.2 lakhs was given by the above-named Desh Raj Singla. It is submitted that in view of this admission, it was clear that the liability if any towards the complainant was not exceeding Rs.3 lakhs and the remaining amount of Rs.2 lakhs pertained to Desh Raj Singla, who has not been made a complainant and as the cheque amount was more than the actually legally recoverable liability, Section 138 of NI Act could not be invoked. It is also argued that the respondent was only earning a sum of Rs.20,000/- per month by working at the shop of Desh Raj Singla and as such obviously, he did not have the financial capacity to advance a cash loan of huge amount of money of Rs.5 lakhs. It is also argued that the evidence produced on record by him has established that the surrounding cheque numbers from the same series had been used and honoured during the year 2005-2006 itself and, therefore, there was no question of the cheque having been issued in favour of the respondent in the year 2013. It is, therefore, argued that the impugned orders are liable to be set aside, petition deserves to be accepted and he deserves to be acquitted of the offence under Section 138 of the NI Act. To fortify his arguments, learned counsel for the petitioner has placed reliance upon the judgment cited as *Dashrathbhai Trikambhai Patel V. Hitesh Mahendrabhai Patel (SC)* : Law Finder Doc ID # 2046163, *Vikas Walia V. State of Haryana*,

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(Punjab and Haryana) : Law Finder Doc Id # 2689132 2025 NCPHHC 7282
and Rohit Jain V. M/s. Kevin Power Solutions Ltd., (Punjab and Haryana) :
Law Finder Doc ID # 2629940 2024 NCPHHC 96754

10. Per contra, learned counsel for the respondent has argued that there was overwhelming evidence on record of the Trial Court to prove that the cheque in question was issued by the petitioner in favour of the respondent to discharge his legally enforceable and existing liability as on date. There is presumption of legally enforceable date in favour of the holder. The petitioner has failed to rebut this statutory presumption under Section 139 of the NI Act. He has admitted his signatures on the cheque in question as well as the fact that it was issued by him. He has failed to prove that this cheque was issued by way of security. It is, therefore, argued that there is no merit in the petition and is liable to be dismissed.

11. This Court has heard the rival submissions made by learned counsel for the parties at considerable length.

12. At the very outset, it would be apposite to reproduce the statutory provisions contained in Section 138 of the N. I. Act, which are relevant for the purpose and which read as follows:

138. Dishonour of cheque for insufficiency, etc., of funds in the account.- Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge,



in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, be punished with imprisonment for a term which may be extended to two years, or with fine which may extend to twice the amount of the cheque, or with both:

Provided that nothing contained in this section shall apply unless –
(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, within thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice. Explanation. - For the purposes of this section, "debt or other liability" means a legally enforceable debt or other liability."

13. Further, under Section 118(a) of the N. I. Act, there is a presumption of consideration that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated



or transferred for consideration until the contrary is proved. Then, as per provisions of Section 139 of the N. I. Act, if signatures on a cheque are admitted, the presumption lies that such cheque is issued in order to discharge legally enforceable debt since the well settled proposition of law is that once issuance of cheque and signature thereof are admitted, presumption of a legally enforceable debt in favour of the holder of the cheque arises. It is for the accused to rebut the said presumption, though he need not adduce his own evidence and can rely upon the material submitted by the complainant. Reference in this regard can be had to the observations made by Hon'ble Supreme Court in ***Rangappa vs. Sri Mohan : 2010 (3) RCR (Criminal) 164*** and ***Goaplast (P) Ltd. vs. Chico Ursula D'Souza : 2003 (2) RCR (Criminal)131.***

14. So far as the argument that the cheque in question was issued as a security and was not representing the actual legally enforceable debt at the time of presentation and hence offence under Section 138 of NI Act was not attracted is concerned, on a perusal of the Trial Court record and the contents of the complaint filed by the respondent, it is revealed that the stand taken by the respondent-complainant was that an amount of Rs.5 lakhs had been taken by the petitioner from the respondent as well as from Desh Raj Singla with promise to return the same and had issued a cheque in favour of the respondent-complainant with mutual understanding between the respondent-complainant and Desh Raj Singla. The petitioner has tried to make out a case that the liability of the petitioner towards the respondent-complainant was only Rs.3 lakhs and not Rs.5 lakhs even if allegations in the complaint were admitted to be



correct. For this purpose, learned counsel for the petitioner had drawn the attention of this Court to the cross-examination of the respondent-complainant, who appeared before the Trial Court as CW1. On perusal of this cross-examination it is revealed that the respondent-complainant stated during cross-examination that he had given a sum of Rs.5 lakhs to the petitioner, out of which a sum of Rs.2 lakhs had been given to him (complainant) by Desh Raj Singla, who had told that he would deduct that amount from his salary. He also stated that he had already repaid the said amount to Desh Raj Singla. In view of his statement it stands proved that though the respondent-complainant had taken an amount of Rs.2 lakhs from Desh Raj Singla but the same stood returned by the complainant himself and the admission so made by the respondent-complainant cannot be said that there was no legally enforceable liability of the petitioner towards the respondent or that the cheque in question was issued showing the same which was not a legally enforceable date. Undoubtedly, it is well settled proposition of law that a cheque must represent a legally enforceable debt on the date of maturity and a cheque not representing the actually legally enforceable debt at the time of presentation cannot attract the offence under Section 138 of the NI Act but, from the evidence produced on record, no inference can be drawn that the cheque in question was not issued for a legally enforceable debt.

15. So far as the contention that the dishonoured cheque was a blank cheque given by him to Desh Raj Singla is concerned, the petitioner never denied his signatures on this cheque. The evidence led by the petitioner cannot be stated to be sufficient to prove that this cheque was a blank cheque or it had



been given to Desh Raj Singla and not to the complainant or that this cheque had been misused.

16. So far as the contention raised by the petitioner to the extent that the cheque in question was a security cheque and was a blank cheque which had been given by him to Desh Raj Singla, employer of the complainant, in the course of his business transaction and the same had been misused by the respondent. However, this contention has no substance in view of the fact that the petitioner did not deny his signatures on the cheque in question nor the factum of issuance thereof. So far as the plea taken by him to the effect that this cheque was given to Desh Raj Singla is concerned, the said Desh Raj Singla had also appeared before the Learned Trial Court as CW2 and while admitting that he had business transactions with one M/s. RP Distributors and M/s. Crystal Pharmaceuticals, denied that the cheque in question had been handed over to him as security during the business dealings of the above-mentioned firms and also denied that after the settlement of account, he had misused one of those cheques in connivance with the respondent-complainant. Nothing could be extracted from his testimony on the basis of which it could be inferred that the cheque in question was not issued in favour of the respondent. Therefore, this Court finds no force in the contention so raised by the petitioner.

17. In view of the discussion made hereinabove, this Court finds that the petitioner has failed to substantiate his plea that the cheque in question was a blank cheque issued by him by way of security in favour of Desh Raj Singla and



was subsequently misused by the respondent-complainant. The petitioner has also failed to establish, by leading cogent and convincing evidence, that the cheque in question did not represent any legally enforceable debt or liability on the date of its presentation. On the contrary, the issuance of the cheque in question and the signatures thereon having been admitted, the statutory presumption under Section 139 of the NI Act operated in favour of the respondent-complainant, which the petitioner failed to rebut by raising a probable defence on the basis of the evidence available on record. The contentions raised by the petitioner with regard to the cheque having been issued as a security cheque, its alleged delivery to Desh Raj Singla and the absence of any legally enforceable liability have already been considered and found to be devoid of merit. No fault can be found in the findings as recorded by the Learned Trial Court as well as Learned Appellate Court which are well-reasoned and warrant no interference. Accordingly, finding no merit in the present revision petition, the same is dismissed. The amount of Rs.5 lakhs already deposited by the petitioner in the Registry is ordered to be released in favour of the complainant on his moving appropriate application in this regard. This amount shall be treated as amount of compensation as awarded by the Learned Trial Court (excluding the amount of interest).

18. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

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19. Since the main petition has been disposed of, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

10.08.2026
Amit Sharma

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No