IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE

PRESENT:
THE HON'BLE JUSTICE UDAY KUMAR

CRR 2253 OF 2022

RANA SIL
-VS-
STATE OF WEST BENGAL & ANR.

For the Petitioner : Mr. Arindam Jana,
Mr. Rahul Surtani,
Ms. Sonali Ghosh

For the Opposite Party No. 2 : Mr. Sumanta Ganguly

Reserved on : 27.08.2026

Pronounced on : 07.09.2026

UDAY KUMAR, J.: –

1. This criminal revision petition calls into question the legality, propriety, and correctness of the judgment and order dated 01.06.2022 passed by the Learned Additional Sessions Judge, 2nd Court, Krishnanagar, Nadia, in Criminal Appeal No. 24 of 2019. By the said impugned judgment, the Learned Appellate Court affirmed the earlier judgment and order of conviction and sentence dated 16.08.2019 passed by the Learned Additional Chief Judicial Magistrate, Krishnanagar, Nadia, in C.R. Case No. 15C of 2016. Under those concurrent findings, the

petitioner, Rana Sil, was found guilty under Section 138 of the Negotiable Instruments Act, 1881, initially being sentenced to suffer simple imprisonment for one month and to pay a compensation of Rs. 2,00,000/-, with a default term of six months' further imprisonment. Although the Learned Appellate Court was graciously pleased to set aside the substantive sentence of imprisonment, it unfortunately upheld the conviction and the heavy compensatory fine of Rs. 2,00,000/-. Being aggrieved by this mechanical and superficial appreciation of statutory law and evidence, the petitioner has knocked on the doors of this Court under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973, urging that penal sanctions have been wrongfully weaponized to validate a fabricated financial claim where no genuine underlying debt ever existed.

2. The foundational genesis of this litigation traces back to a private complaint filed under Section 138 of the NI Act by the opposite party no. 1, Kallol Biswas, against the petitioner, which came to be registered as C.R. Case No. 15C of 2016 before the court of the Learned Additional Chief Judicial Magistrate at Krishnagar. The complainant’s case, set forth in his petition of complaint, was that he had advanced a friendly cash accommodation loan of Rs. 1,20,000/- to the petitioner, and that towards the discharge of this purported liability, the petitioner issued a cheque drawn on the State Bank of India, Krishnagar Branch. When the complainant presented this instrument for encashment, it bounced and was returned unpaid on 01.12.2015 with the bank endorsement "insufficiency of funds." This prompted the complainant to issue a

statutory demand notice on 09.12.2015, and upon the petitioner's failure to meet the demand within the statutory window, the formal criminal complaint was instituted.

3. During the trial before the Learned Magistrate, the complainant rested his case primarily on the original cheque, the bank return memo, the demand notice, and postal receipts, while the trial court heavily leaned on the automated statutory presumptions under Sections 118 and 139 of the NI Act, concluding that the mere admission of a signature on the cheque automatically proved a legally enforceable debt, and finding that the accused failed to discharge his reverse onus, ultimately leading to the judgment of conviction on 16.08.2019. When the matter traveled in appeal as Criminal Appeal No. 24 of 2019, the Learned Additional Sessions Judge dismissed the appeal and sustained the conviction and fine, prompting the present challenge before this Bench.

4. Assailing these concurrent findings, Mr. Arindam Jana, the learned counsel for the petitioner submitted that both the trial and appellate courts committed grave, patent errors of law and misdirected themselves in appreciating the evidence on record, thereby rendering the concurrent findings of guilt legally unsustainable, as the existence of a legally enforceable debt or liability, was never established by the complainant. He merely relied on a bald assertion of advancing an accommodation loan without producing a shred of documentary evidence, bank account statements, or proof of financial capacity to lend Rs. 1,20,000/-.

5. Furthermore, learned counsel submitted that the fact that the complainant took advantage of frequent familial visits to misappropriate a blank signed cheque was clearly established on a preponderance of probabilities through the consistent and unshaken testimonies of defence witnesses DW-1 and DW-2, including the petitioner's mother.

6. Crucially, the prosecution's case suffered from a fatal infirmity because the complainant deliberately withheld Witness No. 4, an individual whom he had specifically cited in his original complaint as an eyewitness to the alleged loan transaction and the handing over of the cheque, thereby attracting a severe adverse inference under Section 114(g) of the Indian Evidence Act that the witness would have exposed the falsehood of the claim.

7. Additionally, Mr. Jana submitted that the petitioner successfully discharged his reverse onus by rebutting the statutory presumption through consistent testimonies of DW-1 and DW-2 (including the petitioner's mother, a pensioner), establishing on a preponderance of probabilities that no such transaction transpired, and that the appellate court erred in drawing adverse conclusions from the petitioner's summary answers during his examination under Section 313 of the Code of Criminal Procedure, losing sight of the settled legal position that an accused's summary examination cannot cure foundational lacunae or lack of independent proof in the prosecution's case, which must stand entirely on its own legs. Therefore, he prayed for setting aside of the impugned judgment and orders.

8. Per contra, Mr. Sumanta Ganguly, the Ld. Advocate for the Opposite Party (Complainant) supports the concurrent findings, submitting that the instant criminal revision petition is devoid of legal merit, lacks substance, and is a clear abuse of the process of law designed solely to delay the execution of a just and lawful conviction. He urged that both the Ld. Trial Court and the Ld. Appellate Court meticulously examined the oral and documentary evidence on record, arriving at well-reasoned, legally sound concurrent findings of fact regarding the issuance of the cheque, the signature of the petitioner, the presentation within validity, subsequent dishonour due to insufficient funds, prompt issuance of the statutory demand notice, and filing within limitation which were all proved beyond doubt through the original instrument, bank return memo, and postal receipts thus satisfying the foundational ingredients of an offence under Section 138 of the NI Act, as such do not warrant interference under the limited and circumscribed scope of revisional jurisdiction.

9. He further submitted that once the petitioner admitted his signature and the issuance of the cheque, the mandatory statutory presumptions under Sections 118 and 139 of the NI Act immediately and firmly kicked in, shifting the burden entirely onto the accused.

10. Relying upon the settled landmark ruling of the Hon'ble Supreme Court in *Bir Singh v. Mukesh Kumar (2019) 4 SCC 197*, he contended that even if the blanks of a signed cheque are filled up by someone other than the drawer, it does not invalidate the instrument once the signature is acknowledged.

11. Mr. Ganguly further urged that the petitioner though alleged unlawful acquisition of a blank signed cheque by the complainant, but he failed to discharge his reverse onus because he never lodged a police complaint, general diary, or bank stop-payment instruction upon receiving the statutory demand notice, rendering his defence of a stolen or misused blank cheque a mere afterthought that was rightly rejected by the both courts. Furthermore, regarding the non-examination of Witness No. 4, it is submitted that the complainant is the master of his case and is not bound to examine all cited witnesses if primary evidence is self-sufficient, while the testimony of defence witnesses DW-1 and DW-2 was rightly rejected as interested and self-serving.

12. Finally, Mr. Ganguly submitted that a Revisional Court under Sections 397 and 401 of the CrPC does not sit as a second Court of Appeal to re-appreciate evidence unless there is gross perversity, illegality, or misreading of evidence, none of which exist here, especially since the appellate court took a lenient view by modifying substantive imprisonment into a compensatory fine. Therefore, he prayed for the dismissal of this revision.

13. Having heard the learned counsel for the competing parties and perused the lower court records, the primary question for determination is whether the concurrent findings of conviction suffer from patent perversity, illegality, or a gross misreading of evidence, particularly concerning the rebuttal of statutory presumptions, the proof of a legally enforceable debt, and the withholding of a material witness?

14. The resolution of this criminal revision hinges upon a careful harmonization of statutory presumptions, the standard of rebuttal in criminal jurisprudence, and the foundational requirement of a legally enforceable debt under the Negotiable Instruments Act, 1881. The legal architecture governing cheque dishonour cases is anchored primarily in Sections 118(a) and 139 of the NI Act, which mandate that every negotiable instrument is presumed to have been drawn for consideration, and that the holder received it in discharge of a legally enforceable debt or liability. However, these provisions do not operate as an irrebuttable command; they must be interpreted alongside Section 20 of the NI Act concerning inchoate instruments, Section 114(g) of the Indian Evidence Act regarding the withholding of vital evidence, and the restricted parameters of revisional review under Sections 397 and 401 of the Code of Criminal Procedure, 1973.

15. The foundational scope of these statutory presumptions was authoritatively settled by a three-judge bench of the Hon'ble Supreme Court in *Rangappa v. Sri Mohan* [(2010) 11 SCC 441]. The Apex Court clarified that while Section 139 includes the presumption regarding the existence of a legally enforceable debt, this presumption is rebuttable in nature. The standard of proof required of an accused to remove this statutory presumption does not scale the heavy criminal threshold of proof "beyond a reasonable doubt." Instead, the accused is required to establish a probable defence on the civil standard of a "preponderance of probabilities," which can be successfully achieved by highlighting inherent improbabilities, structural gaps, or contradictions in the

complainant's version during cross-examination or by adducing positive defence evidence. As the Supreme Court observed:

> *"Once the cheque relates to the account of the accused and he accepts and admits the signatures on the said cheque, then initial presumption as contemplated under Section 139 of the Negotiable Instruments Act has to be raised by the Court in favour of the complainant. The presumption referred to in Section 139 of the N.I. Act is a mandatory presumption... but the accused is entitled to rebut the said presumption."*

16. Building upon these principles, the Hon'ble Supreme Court in *Basalingappa v. Mudibasappa* [(2019) 5 SCC 418] enunciated a vital corollary: once the accused raises a probable defence specifically by calling into question the financial capacity of the complainant to advance a substantial cash loan without any supporting documentation, accounting trail, or formal banking transaction, the evidentiary onus shifts. The complainant can no longer rest idly on the initial statutory presumption; rather, the burden shifts squarely onto the complainant to affirmatively prove his financial capability and the authenticity of the transaction. In the factual matrix of the present case, both lower courts committed a patent illegality by entirely overlooking this shifted burden. The complainant asserted the advancement of a cash loan of Rs. 1,20,000/- yet failed to produce a single bank statement, receipt, or shred of documentary proof demonstrating his financial capacity to lend such an amount.

17. Furthermore, the legal implications surrounding signatures on blank or inchoate cheque leaves must be evaluated through the lens of *Bir Singh (supra)* wherein the Hon'ble Supreme Court held that while filling in the

particulars of a signed blank cheque is permissible under Section 20 of the NI Act, the foundational premise of Section 139 still presumes that the instrument originated from a legitimate transaction and a genuine underlying debt, holding as follows:

> *"If a signed blank cheque is voluntarily presented to a payee, towards some payment, the payee may fill up the amount and other particulars. This in itself would not invalidate the cheque. The onus would still be on the accused to prove that the cheque was not in discharge of a debt or liability by adducing evidence... Even a blank cheque leaf, voluntarily signed and handed over by the accused, which is towards some payment, would attract presumption under Section 139 of the Negotiable Instruments Act..."*

18. In the present case, the petitioner's defence was not a mere technical denial of the handwriting, but a substantive assertion that the blank signed cheque was secretly misappropriated during the complainant's frequent familial visits. While the prosecution relied heavily on the admitted signature, the total absence of a proved financial trail rendered the mechanical application of Section 139 legally flawed.

19. A glaring dimension of perversity in the impugned judgments, is the complete judicial silence and oversight regarding the non-examination of Witness No. 4. In the original petition of complaint, the complainant explicitly cited Witness No. 4 as a direct eyewitness to both the alleged loan transaction and the physical handing over of the cheque. Under Section 114(g) of the Indian Evidence Act, 1872, the law empowers the Court to draw a strong adverse inference that if a material witness cited by a party is deliberately withheld from the witness box, their testimony

would have been unfavourable to that party. The complainant's failure to examine this key witness, combined with the lower courts' failure to draw an adverse inference, constitutes a grave misreading of evidence. The prosecution cannot selectively withhold primary eyewitnesses while seeking the blanket protection of strict statutory presumptions.

20. The petitioner successfully discharged his burden of proof on a preponderance of probabilities through the consistent and unshaken testimonies of defence witnesses DW-1 and DW-2 (including the petitioner's mother, a pensioner). Their evidence established the high probability that no loan transaction ever transpired and that the instrument was acquired without any underlying debt. Moreover, the appellate court's adverse reliance on the petitioner's summary answers during his examination under Section 313 of the Code of Criminal Procedure violated settled legal principles, which dictate that an accused's summary statement cannot cure the foundational lacunae or lack of independent proof in the complainant's case, as the complaint must stand entirely on its own legs.

21. Upon a rigorous analysis of the facts, statutory provisions, and binding precedents, the conclusion becomes inescapable. While the petitioner's admitted signature triggered the initial statutory presumption under Section 139, the petitioner successfully rebutted it by exposing the complainant's lack of financial capacity, the absence of any financial trail, and the deliberate suppression of the primary eyewitness. The lower courts committed a grave miscarriage of justice by mechanically ignoring these vital structural defects.

22. Accordingly, the question formulated for determination is answered in the affirmative. The concurrent findings of the courts below therefore suffer from a fundamental perversity and a misapplication of the legal burden of proof, resulting in a grave miscarriage of justice.

23. In the result, the criminal revision petition, C.R.R. No. 2253 of 2026, is hereby allowed.

24. The impugned judgment and order of conviction dated 01.06.2022 passed by the Learned Additional Sessions Judge, 2nd Court, Krishnanagar, Nadia, in Criminal Appeal No. 24 of 2019, affirming the judgment and order dated 16.08.2019 passed by the Learned Additional Chief Judicial Magistrate, Krishnanagar, Nadia, in C.R. Case No. 15C of 2016, are hereby set aside.

25. The petitioner, Rana Sil, is hereby acquitted of the charge under Section 138 of the Negotiable Instruments Act, 1881.

26. Bail bonds, if any, furnished by the petitioner stand discharged, and any fine or compensation amount deposited pursuant to the orders of the courts below shall be refunded to the petitioner in accordance with law.

27. Any interim orders passed earlier stand vacated.

28. There shall be no order as to costs.

29. Let a copy of this judgment along with the lower court records be transmitted down immediately to the courts below for information and necessary compliance.

30. Case diary, be returned to the Learned Counsel for the State.

31. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)