IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 367 of 2014
Reserved on: 22.09.2026
Date of Decision: 30.09.2026

Surjeet Singh .... Appellant

Versus

Anu Rohila & another .... Respondents

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] Yes

For the Appellant	:	None
For the Respondents	:	Mr Chaman Negi, Advocate, for respondent no.1
	:	Mr P.K. Nadda, Additional Advocate General, for respondent no.2/State.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 30.09.2013, passed by learned Sessions Judge, Sirmour District at Nahan, H.P. (learned appellate Court), vide which judgment of conviction dated 08.06.2012, and order of sentence dated 25.06.2012, passed by learned Judicial Magistrate, First Class, Rajgarh, District Sirmour, H.P. (learned trial Court), were

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

set aside. *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned trial Court for convenience)*

2. Briefly stated, the facts giving rise to the present appeal are that the complainant filed a complaint against the accused before the learned trial Court for the commission of an offence punishable under Section 138 of the Negotiable Instruments Act (NI Act). It was asserted that the accused and the complainant compromised the Criminal Case no. 32/3 of 2010 titled Sujeet Singh versus Anu Rohila, on 26.04.2011. The accused paid ₹1,10,000/- to the complainant in cash and issued a cheque of ₹60,000 for the balance amount. The complainant presented the cheque before his bank, but it was dishonoured with the endorsement, 'exceeds arrangement and drawer stamp required'. The complainant issued a notice to the accused asking her to pay the money within 15 days of the receipt of the notice. The notice was duly served upon the accused, but she failed to repay the money. Hence, a complaint was filed against the accused for taking action as per the law.

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

4. The complainant examined Shitanshu Vermani (CW-1), himself (CW-2) and Ajay Sharma (CW-3) to prove his complaint.

5. The accused, in her statement recorded under Section 313 of the Code of Criminal Procedure (CrPC), admitted that she knew the complainant. She stated that the earlier account had been settled. The complainant had taken a blank cheque from her. He was operating a lottery system. She tendered the documents in evidence.

6. Learned trial Court held that the cheque carried with it a presumption that it was issued for consideration to settle the earlier dispute between the parties. An amount of ₹1,10,000/- was received by the complainant in cash and a cheque of ₹60,000/- was issued by the accused. The complainant presented the cheque, but it was dishonoured with the

endorsement ‘exceeds arrangements and drawer stamp required’. The issuance of the fresh cheque furnished a fresh cause of action. The notice was duly served upon the accused. All the ingredients of commission of an offence punishable under Section 138 of the NI Act were duly satisfied. Thus, the learned Trial Court convicted the accused of the commission of an offence punishable under Section 138 of the NI Act and sentenced her to undergo simple imprisonment for one year, pay compensation of ₹60,000/- and, in default of payment of compensation, to undergo simple imprisonment for three months.

7. Being aggrieved by the judgment and order passed by the learned trial Court, the accused filed an appeal, which was decided by the learned Sessions Judge, Sirmour District at Nahan, H.P. (learned appellate Court). The learned appellate Court held that a complaint was pending before the Court regarding a cheque of ₹1,70,000/-. The accused paid ₹1,10,000/-in cash and issued a post-dated cheque of ₹60,000/-, as per the compromise. The accused was convicted in the earlier complaint and was released after due admonition under Section 3 of the Probation of Offenders Act. It was laid down by the Hon'ble

Supreme Court in ***Lalit Kumar and another versus State of UP, 2008 5 SCC 638,*** that issuing a cheque during the pendency of the proceedings under Section 138 of the NI Act does not provide fresh cause of action and cannot be said to be towards the enforceable debt or liability. The learned trial Court erred in holding that the cheque was towards a legally enforceable debt/liability. Hence, the learned appellate Court allowed the appeal and set aside the judgment and order passed by the learned trial Court

8. Being aggrieved by the judgment passed by the learned appellate Court, the complainant has filed the present appeal asserting that the learned appellate Court erred in holding that there was no existing debt or liability at the time of handing over of the cheque. The cheque was given for the existing liability of ₹60,000/-, which was the remaining amount under the compromise. It was duly proved on record that the cheque was dishonoured with an endorsement 'exceeds arrangements' and the accused had failed to pay the money despite the receipt of valid notice of demand. Therefore, it was prayed that the present appeal be allowed and the judgment passed by the learned appellate Court be set aside.

9. There was no representation on behalf of the appellant on 10.10.2014, 21.05.2025, 15.09.2025 and 24.11.2025. The Court was constrained to pass an order on 30.12.2025 that the appellant would be present before the Court in person on every date of hearing. However, none appeared before the Court on 22.09.2026, and the Court had no option but to proceed further with the matter.

10. I have heard Mr Chaman Negi, learned counsel for respondent no. 1/accused and Mr P.K. Nadda, learned Additional Advocate General, for respondent no.2/State.

11. Mr Chaman Negi, learned counsel for respondent no. 1, submitted that the cheque was issued towards the payment of the amount involved in the earlier complaint. The accused was convicted and released after admonition. The learned appellate Court had rightly held that the second cheque was not towards the legally enforceable debt. A person cannot be convicted twice for the commission of the same offence. The learned trial court had taken a reasonable view that could have been taken, and no interference is required with the judgment of the learned

appellate Court. Hence, he prayed that the present appeal be dismissed.

12. Mr P.K. Nadda, learned Additional Advocate General, for respondent no. 2/State, submitted that the dispute is between the private parties and the State has no submissions to make.

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

14. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in ***Sanjay Kumar v. State of Bihar, 2026 SCC OnLine SC 1373,*** that the Court can interfere with a judgment of acquittal only if it is impossible, perverse, wholly unsustainable, or manifestly illegal. It was observed:

> **Scope of interference with an acquittal:**
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> **26.** At the outset, it is necessary to remind ourselves of the settled principles governing interference with an order of acquittal. An accused is presumed innocent until proven guilty. When a court of competent jurisdiction acquits the accused, the presumption of innocence is not weakened but reinforced. Where such acquittal is affirmed by the High Court, the caution to be exercised by this Court under Article 136 is even greater.
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> **27.** In ***Kali Ram v. State of Himachal Pradesh (1973) 2 SCC 808: 1973 SCC (Cri) 1048***, this Court explained the golden

thread running through criminal jurisprudence in the following words:

> *"25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence. A rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the Court should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the Court entertains reasonable doubt regarding the guilt of the accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable; it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that it is hesitant and afraid to take things to their natural consequences. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by resort to surmises, conjectures or fanciful considerations. As mentioned by us recently in the case of* State of Punjab *v.* Jagir Singh, *a criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and fantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life and is the product of the interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the Court has to judge the evidence by the yardstick of probabilities, intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be*

given to the accused, the Courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures."

28. The decision in ***Kali Ram*** (supra) further cautions that wrongful acquittal and wrongful conviction do not stand on the same footing, for conviction of an innocent person causes grave injustice and shakes public confidence in the administration of criminal justice. The rule of benefit of doubt, therefore, is not a technical rule; it is a substantive safeguard flowing from the presumption of innocence.

29. In ***Ghurey Lal v. State of Uttar Pradesh (2008) 10 SCC 450 : (2009) 1 SCC (Cri) 60***, this Court reiterated the limited scope of interference with acquittals. This Court observed:

"75. The Trial Court has the advantage of watching the demeanour of the witnesses who have given evidence; therefore, the appellate court should be slow to interfere with the decisions of the Trial Court. An acquittal by the Trial Court should not be interfered with unless it is totally perverse or wholly unsustainable."

30. The decision in ***Ghurey Lal*** (supra) also crystallised certain propositions: first, there is a double presumption of innocence in favour of an acquitted accused; secondly, if two views are possible, the view favourable to the accused must prevail; thirdly, though the appellate court has the power to reappreciate evidence, it should interfere only when the acquittal is manifestly illegal, perverse or results in miscarriage of justice; and fourthly, due weight must be given to the Trial Court's findings, particularly because the trial judge had the advantage of observing the demeanour of witnesses.

31. In ***Chandrappa v. State of Karnataka (2007) 4 SCC 415: (2007) 2 SCC (Cri) 325***, this Court held that though the appellate court has full power to review and reappreciate the evidence, the presumption of innocence is strengthened by an order of acquittal. It was held that

> when two reasonable conclusions are possible on the basis of evidence on record, the appellate court should not disturb the finding of acquittal.
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> **32.** The same principle was restated in ***Mrinal Das v. State of Tripura (2011) 9 SCC 479***, wherein this Court held that an order of acquittal is to be interfered with only when there are compelling and substantial reasons for doing so. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal.
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> **33.** Therefore, the question before us is not whether another view on the evidence is possible. The question is whether the view taken by the Trial Court and affirmed by the High Court is impossible, perverse, wholly unsustainable, or manifestly illegal. Having examined the record, we are unable to hold so.

15. It is undisputed that the complainant had earlier filed a complaint for the dishonour of the cheque of ₹1,70,000 /-. The matter was compromised and ₹1,10,000. was paid in cash and a cheque of ₹60,000/- was issued. Ajay Sharma (CW-3) also stated that the accused had paid ₹1,10,000/- to the complainant and issued a cheque of ₹60,000/-. He proved the agreement (Ext CW-2/E). Thus, the present cheque was towards the liability involved in the earlier cheque.

16. The complainant stated in his cross-examination that he had withdrawn the complaint. Ajay Sharma (CW-3) also stated that it was agreed between the parties that the complainant would withdraw the earlier complaint. The learned Judicial

Magistrate First Class has passed an order (Ext. DX) on 10.05.2011, that the parties were heard on the quantum of sentence. Since the matter had been compromised, the convict was admonished and was let off. Thus, the complaint was not withdrawn as was claimed by the complainant, but the accused was convicted and was released after admonition.

17. In ***Lalit Kumar Sharma v. State of U.P., (2008) 5 SCC 638: 2008 SCC OnLine SC 785,*** a complaint was pending before the Court. It was agreed that in case a cheque of ₹5,02,050/- is issued, the complaint would be withdrawn. The cheque was issued and was dishonoured. However, the earlier complaint was not withdrawn, and the accused was convicted. It was laid down by the Hon'ble Supreme Court that the cheque was not issued in discharge of the debt or the liability. There was only one transaction between the parties for which they had already been punished. It was observed at page 642:

> **"17.** Thus, the second cheque was issued by Manish Arora for the purpose of arriving at a settlement. The said cheque was not issued in discharge of the debt or liability of the Company of which the appellants were said to be the Directors. There was only one transaction between Shri Ashish Narula, Shri Manish Arora, Directors of the Company and the complainant. They have already been punished. Thus, the question of entertaining the second

> complaint did not arise. It was, in our opinion, wholly misconceived. The appeal, therefore, in our opinion, must be allowed. It is directed accordingly. The respondent shall bear the costs of the appellants. Counsel's fee assessed at Rs 25,000.

18. In ***Gimpex (P) Ltd. v. Manoj Goel, (2022) 11 SCC 705: 2021 SCC OnLine SC 925,*** a complaint was filed for the commission of an offence punishable under Section 138 of the NI Act. A compromise was entered into between the parties. The cheques were issued and were dishonoured. A second complaint was filed. It was held by the Hon'ble Supreme Court that it is impermissible to continue with two proceedings regarding the same liability and the second set of cheques cannot be said to be in discharge of the legally enforceable debt or liability. However, the matter would be different had the earlier complaint been withdrawn. It was observed at page 733:

> **41.** When a complainant party enters into a compromise agreement with the accused, it may be for a multitude of reasons — higher compensation, faster recovery of money, uncertainty of trial and strength of the complaint, among others. A complainant enters into a settlement with open eyes and undertakes the risk of the accused failing to honour the cheques issued pursuant to the settlement, based on certain benefits that the settlement agreement postulates. Once parties have voluntarily entered into such an agreement and agree to abide by the consequences of non-compliance with the settlement agreement, they cannot be allowed to reverse the effects

of the agreement by pursuing both the original complaint and the subsequent complaint arising from such non-compliance. The settlement agreement subsumes the original complaint. Non-compliance with the terms of the settlement agreement or dishonour of cheques issued subsequent to it would then give rise to a fresh cause of action attracting liability under Section 138 of the NI Act and other remedies under civil law and criminal law.

42. A contrary interpretation, which allows for the complainant to pursue both the original complaint and the consequences arising out of the settlement agreement, would lead to contradictory results.

42.1. *First*, it would allow for the accused to be prosecuted and undergo trial for two different complaints, which in essence arise out of one underlying legal liability.

42.2. *Second*, the accused would then face criminal liability for not just the violation of the original agreement of the transaction which had resulted in issuance of the first set of cheques, but also the cheques issued pursuant to the compromise deed.

42.3. *Third*, instead of reducing litigation and ensuring faster recovery of money, it would increase the burden of the criminal justice system where judicial time is being spent on adjudicating an offence which is essentially in the nature of a civil wrong affecting private parties — a problem noted in multiple judgments of this Court cited above. Most importantly, allowing the complainant to pursue parallel proceedings, one resulting from the original complaint and the second emanating from the terms of the settlement, would make the settlement and issuance of fresh cheques or any other partial payment made towards the original liability meaningless. Such an interpretation would discourage settlement of matters since they do not have any effect on the status quo, and in fact increase the protracted litigation before the court.

43. Thus, in our view, a complainant cannot pursue two parallel prosecutions for the same underlying transaction. Once a settlement agreement has been entered into by the parties, the proceedings in the original complaint cannot be sustained, and a fresh cause of action accrues to the complainant under the terms of the settlement deed. It has been urged by Mr V. Giri, learned Senior Counsel, and Ms Liz Mathew, learned counsel, that parallel prosecutions would not lead to a multiplicity of proceedings, as in the present case, both complaints are being tried by the same court. This may be true for the case before us, however, this Court in ***Damodar S. Prabhu [Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663 : (2010) 2 SCC (Civ) 520 : (2010) 2 SCC (Cri) 1328]*** and ***Expeditious Trial of Cases Under Section 138 of NI Act 1881, In re [Expeditious Trial of Cases Under Section 138 of NI Act 1881, In re, (2021) 16 SCC 116]*** has recognised multiplicity of complaints as one of the major reasons for delay in trial of cases under Section 138 of the NI Act and the consequent choking of the criminal justice system by a disproportionate number of Section 138 cases. While it is true that the trial in this case is before one court, that is not necessarily the ground reality in all cases.

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50. In the present case, the first set of cheques which were issued allegedly towards discharge of the liability under the HSSA were dishonoured. A deed of compromise was entered into thereafter on 12-3-2013. The deed of compromise was partially implemented by the payment of an amount of Rs 3 crores by demand draft to the complainant. Upon the receipt of an amount of Rs 3 crores, Gimpex Pvt. Ltd. was to grant its no objection to the plea of bail of Manoj Goel. Manoj Goel undertook to pay the balance of Rs 7 crores within three months in instalments. The second set of cheques issued pursuant to the deed of compromise were also dishonoured. The Single Judge of the High Court adverted to Clause 9 of the deed of

> compromise, which stipulated that upon the payment of the entire settlement amount of Rs 10 crores, all proceedings including the criminal complaints would have to be withdrawn. The Single Judge was persuaded to quash the criminal complaint instituted against Manoj Goel on the basis of the second set of cheques on the ground that:
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> **50.1.** Since the proceedings under the NI Act for the dishonour of the first set of cheques was pending, the second set of cheques issued only on the basis of the deed of compromise could not be construed as being towards the discharge of a liability.
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> **50.2.** The validity of the deed of compromise had been challenged in the suit pending before the High Court.

19. In the present case also, the complaint was continued, the accused was convicted and was admonished. Therefore, there is force in the submission made on behalf of the accused that she had already been punished for dishonour of the cheque of ₹1,70,000 /-, and cannot be punished again for the same liability. Thus, the learned appellate Court had taken a reasonable view that could have been taken based on the material placed before it, and no interference is required with a reasonable view of the learned appellate Court, even if another view is possible.

20. In view of the above, the present appeal fails, and it is dismissed, so also the pending applications, if any.

21. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha

Sanhita, 2023) the respondent no.1 is directed to furnish personal bonds in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of the learned trial Court, which shall be effective for six months with a stipulation that in the event of a Special Leave Petition being filed against this judgment or on grant of the leave, the respondent no.1 on receipt of notice thereof shall appear before the Hon'ble Supreme Court

22 The present appeal stands disposed of, so also the pending miscellaneous application(s), if any

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

(Rakesh Kainthla)
Judge.

30th September, 2026.
(Ravinder)