2026:JHHC:29800

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 1596 of 2016

Beena Jha, aged 68 years, Wife of Late Dharmanand Jha, resident of M-42, Argora Housing Colony, Post Office – Argora, Police Station – Doranda, District – Ranchi (Jharkhand).

.... …. **Petitioner**

Versus

1. The State of Jharkhand
2. Gangeshwar Jha, son of Amar Nath Jha, Assistant Regional Officer, Bihar State Housing Co-operative Federation, Regional Office, Ranchi, at Indira Palace, Hinoo, P.O. – Hinoo, P.S. – Doranda, District - Ranchi.
3. Managing Director, Bihar State Housing Co-operative Federation, Jawahar Lal Nehru Marg, P.O. – G.P.O. & P.S. – Shashtri Nagar, District – Patna (Bihar).

.... **Opp. Parties**

Coram: **HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**

For the Petitioner : Mr. A.K. Kashyap, Sr. Advocate.
Mr. Anurag Kashyap, Advocate.
Ms. Shalaka Srivastava, Advocate.
Mrs. Supriya Dayal, Advocate.
For the State : Mrs. Ruby Pandey, A.P.P.
For the O.P. Nos. 2&3 : Mr. Mahesh Kumar Sinha, Advocate.
Mr. Gaurav Priyadarshi, Advocate.
Mrs. Priyadarshini Shiwangi, Advocate.

JUDGMENT

CAV On Dated- 06.07.2026 **Pronounced On - 05.10.2026**

1. Heard learned counsel for the petitioner as well as learned Additional P.P. for the State assisted by learned counsel for the opposite party nos. 2 & 3.

2. It is pertinent to mention here that the original petitioner namely, Dharmanand Jha has died during pendency of this revision

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and his wife namely, Beena Jha has been substituted vide order dated 24.07.2025 passed by Co-ordinate Bench of this Court to contest this revision application.

3. The instant criminal revision has been preferred against the judgment dated 19.09.2016 passed by learned Additional Judicial Commissioner-I, Ranchi in Criminal Appeal No. 173 of 2007, whereby and whereunder the learned Appellate Court has dismissed the appeal and affirmed the impugned judgment of conviction and order of sentence dated 23.07.2007 passed by learned Judicial Magistrate, 1st Class, Ranchi, in Complaint Case No. 323 of 2004 (T.R. No. 859 of 2007), whereby and whereunder the petitioner has been convicted for the offence under Section 138 of the Negotiable Instrument Act and sentenced to undergo S.I. for one year and also sentenced to pay compensation of Rs. 18,00,000/- to the complainant (opposite party no. 2 herein).

Factual Matrix

4. The factual matrix of the case giving rise to this revision is that the complainant (O.P. No. 2), Assistant Regional Officer in Bihar State Housing Co-operative Federation Limited, was duly authorized person and he filed one complaint case before the concerned trial court stating inter alia that the accused Dharmanand Jha was Secretary of Minakshi Sahakari GRih Nirman Samiti Ltd., Ranchi, which is a registered Society. The said Society was in

possession of a piece of land suitable for construction of multi-storeyed building consisting of 16 super deluxe residential flats, the estimated cost of which was about Rs. 1,80,00,000/- only and the federation has to provide financial assistance by way of loan to their affiliated as well as their associated individual members for construction of residential house. The society approached to the federation for project loan and an agreement was entered by the accused Late Dharmanand Jha and its other office bearers with the Administrator of the federation in which a loan of Rs. 1,50,00,000/- was sanctioned and the same was realized. In pursuance of the above said agreement, the federation of the complainant advanced a loan of altogether Rs. 1,50,00,000/- besides interest. The accused Late Dharmanand Jha (Original Petitioner) had issued three cheques bearing No. 847625, 847626 and 847627 dated 28.02.2004 of Rs. 6,00,000/- of each, total Rs. 18,00,000/- drawn on Punjab National Bank, Argora Housing Colony, Ranchi for the payment of the consideration amount, which the accused Late Dharmanand Jha (Original Petitioner) had borrowed from the federation in pursuance of the said agreement. The cheques issued by the accused were present for clearance before the Punjab National Bank, Indira Palace Branch, Ranchi, which was dishonoured on 12.03.2004 due to “insufficient fund”. The complainant sent a legal notice on 24.03.2004 to the accused Late Dharmanand Jha (Original

Petitioner) demanding payment of aforesaid cheques amount within 15 days from the date of receiving notice. After stipulated time, the accused Dharmanand Jha did not pay the cheques amount to the complainant, therefore, complaint case No. 323 of 2004 was instituted under Section 138 of the Negotiable Instrument Act, 1881 on 12.04.2004 before the learned Chief Judicial Magistrate, Ranchi. Learned C.J.M., Ranchi transferred the case to J.M., 1st Class, Ranchi, who took cognizance and after enquiry finding prima facie case issued summon to accused.

5. In obedience to summon, the original petitioner appeared and contested the case.

6. The complainant examined himself as C.W.-1 and also adduced documentary evidence. Thereafter, statement of the accused under Section 313 of Cr.P.C. was recorded, wherein he has pleaded his innocence and false implication and also examined two defence witnesses namely, Loknath Tiwary (D.W.-1) and Gangadhar Mishra (D.W.-2). The learned trial court has found the accused / original petitioner guilty for the offence under Section 138 of the N.I. Act and sentenced as stated above. Against which, the accused / original petitioner has filed an appeal which has also dismissed.

7. As per defence evidence, the case of defence is that the accused met with an accident and lost his mental stability due to

brain injury and in that condition, the impugned cheques were signed.

D.W.-2 has also stated that the accused was honorary Secretary of the Registered Society and there were correspondences between the Managing Director of the Department and the Secretary of the Society. The Society has deposited the amount with the Department after selling the flat and in the month of November, 2003, the Managing Director had told for recovery and on that basis, he had gone to borrower to take the conditional cheque with the condition that after payment will be made, the cheque will be returned (as security cheque). The accused had given application to the Department for one time settlement. It is also stated that due to inequilibrium caused by accident, the accused was not able to take right decision and properly understand at the time of signing the cheques.

8. Learned counsel for the petitioner, assailing the impugned judgments, has submitted that the original petitioner was honorary Secretary of the registered society. The complainant has not issued notice in terms of Security Contract of Regulation Act. The learned trial court as well as appellate court has failed to consider the provision of Section 141 of the N.I. Act. Admittedly, the original petitioner was honorary Secretary of Minakshi Sahakari Grih

Nirman Samiti, a Registered Co-operative Society, therefore, the Society itself has to be impleaded in this case.

9. It is further submitted that the President of the said Society, who was also signatory of the cheques has not been made accused in this case. The complainant has not brought on record any material showing that the petitioner was responsible to the Registered Society for the conduct of the business of the Society.

10. It is further contended that the complainant (O.P. No. 2) in addition to the above case has also initiated a Certificate Proceeding being Case No. 3/2004, which was pending before the District Certificate Officer-cum-Certificate Officer, Ranchi for recovery of the amount in question inclusive of the amount contained in three cheques for which the present case has been lodged.

11. It is further submitted that in the Certificate Proceeding, some amount was deposited by the Society as is apparent from Annexure-A & B. The original agreement was also not brought on record to prove its payment modality. An attempt was also made by the parties in assistance with O.P. No. 3 to reconciliate the matter and arrived at one time settlement, which could not be succeeded. The Department has also not granted NOC for Rs. 36,00,000/- only, which was already deposited.

12. It is further submitted that Rs. 5,00,000/- was deposited on 14/16.12.2005 and Rs. 45,00,000/- earlier inclusive of the cheque

amount. The three cheques were handed over by way of security and not to discharge any inclusive debt or liability. Thus, the presentation of cheques and getting it's dishonoured for fixing the criminal liability is not justified under law. The learned trial court as well as appellate court has also failed to properly appreciate the defence evidence and arrived at wrong conclusion, therefore, the impugned judgment suffers from serious irregularity and infirmity, as pointed above, which are liable to be set aside and this revision may be allowed.

13. Learned counsel for the petitioner has placed reliance on the judgment of Hon'ble Supreme Court reported in the case of ***Dashrathbhai Trikambhai Patel Vs. Hitesh Mahendrabhai Patel and Another*** reported in ***(2023) 1 SCC 578***, wherein it has been held that "*Where the borrower agrees to repay the loan within a specified timeline and issues a cheque for security but defaults in repaying the loan within the timeline, the cheque matures for presentation. However, if the loan has been discharged before the due date or if there is an "altered situation", then the cheque shall not be presented for encashment. Regarding the post-dated cheque, though it might be drawn to represent a legally enforceable debt at the time of its drawing, for the offence to be attracted, the cheque must represent a legally enforceable debt at the time of encashment*."

14. Learned counsel for the petitioner has further placed reliance on the judgment of Hon'ble Supreme Court reported in the case of ***S.M.S. Pharmaceuticals Ltc. Vs. Neeta Bhalla and Another*** reported in ***(2005) 8 SCC 89***, wherein it has been held that "*Under Section 141 what is required is that the persons who are sought to be made criminally liable should be, at the time the offence was committed, in charge of and responsible to the company for the conduct of the business of the company. Every person connected with the company shall not fall within the ambit of the provision. It is only those persons who were in charge of and responsible for the conduct of business of the company at the time of commission of an offence, who will be liable for criminal action. The liability arises on account of conduct, act or omission on the part of a person and not merely on account of holding an office or a position in a company.*"

15. On the other hand, learned counsel for the Opposite Party Nos. 2 & 3 as well as learned Additional Public Prosecutor have vehemently opposed the aforesaid contentions raised on behalf of the petitioner and submitted that all the above points were also raised before the learned trial court as well as learned appellate court and properly considered. The original petitioner was convicted and sentenced on the basis of oral and documentary evidence adduced by the complainant and also ordered to pay compensation

amount. The appeal preferred by the original petitioner was also dismissed on merits. The proceedings under N.I. Act is not barred only on the ground that the matter also relates to the Certificate Proceeding for realization of the amount. The cheques were issued for immediate discharge of liability, which were bounced and after observing all legal formalities, the Complaint Case was instituted. There is no reason to take a different view from the learned trial court as well as appellate court in their concurrent findings recording conviction and sentence of the original petitioner, who has now died. Therefore, this revision is devoid of merits and fit to be dismissed.

16. I have given anxious consideration to the rival contentions of the parties and also perused the impugned judgments and order passed by the learned trial court as well as appellate court along with other materials available on record.

17. It appears that the learned trial court has meticulously dealt with all the points which has been taken here at the time of hearing of this revision and passed a reasoned judgment and order. Similarly, the appellate court has also re-appreciated the evidence available on record adduced by both parties, including the above points of arguments and upheld the judgment passed by the learned trial court.

18. It is here to be observed that the power of revisonal court to interfere with the concurrent findings of the trial court as well as appellate court is very limited.

19. The Apex Court in the case of **Malkeet Singh Gill Vs. State of Chhattisgarh** reported in ***(2022) 8 SCC 204*** has held as under :

> *"Before adverting to the merits of the contentions, at the outset, it is apt to mention that there are concurrent findings of conviction arrived at by two Courts after detailed appreciation of the material and evidence brought on record. The High Court in criminal revision against conviction is not supposed to exercise the jurisdiction alike to the appellate Court and the scope of interference in revision is extremely narrow. Section 397 of Criminal Procedure Code (in short 'CrPC') vests jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior court. The object of the provision is to set right a patent defect or an error of jurisdiction or law. There has to be well founded error which is to be determined on the merits of individual case. It is also well settled that while considering the same, the revisional Court does not dwell at length upon the facts and evidence of the case to reverse those findings."*

20. The Apex Court in the case of ***Manju Ram Kalita Vs. State of Assam*** reported in ***(2009) 13 SCC 330*** has held as under :

> *"9. So far as issue no. 1 is concerned i.e. as to whether*

the appellant got married with Smt. Ranju Sarma, is a pure question of fact. All the three courts below have given concurrent finding regarding the factum of marriage and its validity. It has been held to be a valid marriage. It is settled legal proposition that if the courts below have recorded the finding of fact, the question of re-appreciation of evidence by the third court does not arise unless it is found to be totally perverse. The higher court does not sit as a regular court of appeal. It's function is to ensure that law is being properly administered. Such a court cannot embark upon fruitless task of determining the issues by re-appreciating the evidence.

10. This Court would not ordinarily interfere with the concurrent findings on pure questions of fact and review the evidence again unless there are exceptional circumstances justifying the departure from the normal practice."

21. In view of the above discussions, I do not find any legal substance in the aforesaid points of argument raised on behalf of the petitioner and no merits in this revision, which stands **dismissed**.

22. Pending I.A., if any, stand disposed of.

23. Let a copy of this judgment along with trial court record be sent to the concerned trial court for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated : 05/10/2026
Sunil/-NAFR
Uploaded on 06/10/2026