IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 478 of 2011
Reserved on: 07.10.2026
Date of Decision: 16.10.2026.

Shama Kumari ...Appellant

Versus

Sunita Sharma ...Respondent

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

For the Appellant : Mr Arun Kaushal, Advocate vice Mr Sandeep Dutta, Advocate.

For the respondent : Ms Preetika Thakur, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 23.06.2011 passed by learned Judicial Magistrate First Class, Court No. 3, Shimla, H.P. (learned Trial Court) vide which the respondent (accused before learned Trial Court) was acquitted of the commission of an offence punishable under Section 138 of the Negotiable Instruments Act (in short "NI

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

Act"). *(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 presented a complaint before the learned Trial Court against the accused for the commission of an offence punishable under Section 138 of the NI Act. It was asserted that the complainant and accused knew each other for many years. The accused requested the complainant for a loan of ₹60,000/-. The complainant gave ₹60,000/- to the accused in the presence of Ajay Gupta, who had assured the complainant that the accused would repay the amount. The complainant had withdrawn the amount from her joint account maintained in UTI Bank. The accused issued a post-dated cheque of ₹60,000/- drawn on HP State Cooperative Bank in favour of the complainant. The complainant presented the cheque before her bank, but it was dishonoured with the remarks "insufficient funds". The complainant served a notice upon the accused, which was returned undelivered. The notice is deemed to have been served upon the accused. The accused failed to pay the money despite the deemed receipt of a valid

notice of demand. Hence, a complaint was filed before the learned Trial Court for taking action against the accused as per the law.

3. The learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, 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 Radha Mohan (CW1), Narinder Thakur (CW2), Jeet Ram (CW3), and herself (CW4), to prove her complaint.

5. The accused, in her statement recorded under Section 313 of the Code of Criminal Procedure (CrPC), admitted that she had cordial relations with the complainant. She stated that she had issued a blank cheque as security because her mother-in-law was a member of a Kitty being run by the complainant. The complainant misused her blank cheque. She examined herself (DW1), Suman (DW2), and Shakuntala (DW3).

6. The learned Trial Court held that the accused was a resident of Block B, House No. 418. But the notice was issued at the address Block No. B, House No. 420. Thus, the notice was not sent to the correct address. The complainant was required to prove that a notice was issued to the accused asking her to pay the amount, which requirement was not satisfied because the notice was not sent to the correct address. It was also returned undelivered, and the presumption of deemed service cannot be drawn because this presumption is only available when the notice is sent to the correct address. Therefore, the learned Trial Court acquitted the accused.

7. Being aggrieved by the judgment passed by the learned Trial Court, the complainant filed the present appeal asserting that the learned Trial Court erred in appreciating the material on record. The purpose of enacting the Negotiable Instruments Act was overlooked. The demand was made by the complainant in writing, and the mere clerical error was not sufficient to hold that the notice was not sent to the accused. Therefore, it was prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

8. I have heard Mr Arun Kaushal, learned vice counsel, representing the appellant and Ms Preetika Thakur, learned counsel for the respondent/accused.

9. Mr Arun Kaushal, learned vice counsel, representing the appellant, submitted that the learned Trial Court erred in acquitting the accused on the ground that the notice was not sent to the correct address. The clerical error should not have been used to discard the complainant's case. The accused could have made the payment within 15 days of the receipt of the notice to the accused, but she failed to do so. Hence, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside. He relied upon the following judgments in support of his submissions:

1. ***K. Bhaskaran vs. Sankaran Vaidhyan Balan and another (1999) 7 SCC 510;***
2. ***D. Vinod Shivappa vs. Nanda Belliappa (2000) 6 SCC 456;***
3. ***Hiten P. Dalal vs. Bratindranath Banerjee (2001) 6 SCC 16;***
4. ***M/s Madan and Co. vs. Wazir Jaivir Chand (1989) 1 SCC 264; and***
5. ***C.C. Alavi Haji vs. Palapetty Muhammed and another (2007) 6 SCC 555***

10. Ms Preetika Thakur, learned counsel for the respondent/accused, submitted that the notice should have been issued at the correct address. In the present case, the notice was admittedly sent to the incorrect address, and the presumption could not have been drawn. There is no infirmity in the judgment passed by the learned Trial Court. Hence, she prayed that the present appeal be dismissed. She relied upon the judgment in ***Sainaba vs. State of Kerala, 2026 INSC 1069*** in support of her submission.

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

12. 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.

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 technical; 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.
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> **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.

13. While dealing with the appeal against the acquittal in a complaint filed for the commission of an offence punishable under Section 138 of the NI Act, the Hon'ble Supreme Court held in ***Rohitbhai Jivanlal Patel v. State of Gujarat (2019) 18 SCC 106*** that the normal rules with the same rigour

cannot be applied to the cases under the Negotiable Instruments Act because there is a presumption that the holder had received the cheque for consideration to discharge the debt/liability. The Appellate Court is entitled to look into the evidence to determine whether the accused has discharged the burden or not. It was observed: -

> **"12....** The principles aforesaid are not of much debate. In other words, ordinarily, the appellate court will not be upsetting the judgment of acquittal, if the view taken by the trial court is one of the possible views of the matter and unless the appellate court arrives at a clear finding that the judgment of the trial court is perverse, i.e. not supported by evidence on record or contrary to what is regarded as normal or reasonable; or is wholly unsustainable in law. Such general restrictions are essential to remind the appellate court that an accused is presumed to be innocent unless proven guilty beyond a reasonable doubt, and a judgment of acquittal further strengthens such presumption in favour of the accused. However, such restrictions need to be visualised in the context of the particular matter before the appellate court and the nature of the inquiry therein. The same rule with the same rigour cannot be applied in a matter relating to the offence under Section 138 of the NI Act, particularly where a presumption is drawn that the holder has received the cheque for the discharge, wholly or in part, of any debt or liability. Of course, the accused is entitled to bring on record the relevant material to rebut such presumption and to show that the preponderance of probabilities is in favour of his defence, but while examining if the accused has brought about a probable defence so as to rebut the presumption, the appellate court is certainly entitled to

examine the evidence on record in order to find if preponderance indeed leans in favour of the accused.

13. For determination of the point as to whether the High Court was justified in reversing the judgment and orders of the trial court and convicting the appellant for the offence under Section 138 of the NI Act, the basic questions to be addressed are twofold: as to whether the complainant Respondent 2 had established the ingredients of Sections 118 and 139 of the NI Act, so as to justify drawing of the presumption envisaged therein; and if so, as to whether the appellant-accused had been able to displace such presumption and to establish a probable defence whereby, the onus would again shift to the complainant?"

14. The ingredients of the commission of an offence punishable under Section 138 of the NI Act were explained in ***Kuntegowda v. Thurubaiah, 2026 SCC OnLine SC 1485*** as under:

5.3. At this juncture, it is pertinent to highlight the key ingredients as highlighted by this Court in the case of ***Kusum Ingots & Alloys Ltd. v. Pennar Peterson Securities Ltd., (2000) 2 SCC 745; 2000 SCC (Cri) 546: (2000) 100 COMP CAS 755***.

"10. On a reading of the provisions of Section 138 of the NI Act, it is clear that the ingredients which are to be satisfied for making out a case under the provision are:

(i) a person must have drawn a cheque on an account maintained by him in a bank for payment of a certain amount of money to another person from out of that account for the discharge of any debt or other liability;

(ii) that 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;

(iii) that cheque is returned by the bank unpaid, either because the amount of money standing to the credit of the 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 the bank;

(iv) the payee or the holder in due course of the cheque 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 15 days of the receipt of information by him from the bank regarding the return of the cheque as unpaid;

(v) the drawer of such cheque fails to make payment of the said amount of money to the payee or the holder in due course of the cheque within 15 days of the receipt of the said notice.

11. If the aforementioned ingredients are satisfied, then the person who has drawn the cheque shall be deemed to have committed an offence. In the explanation to the section, clarification is made that the phrase "debt or other liability" means a legally enforceable debt or other liability.

5.4. The ingredients of the offence under Section 138 are as follows:

i. The drawing of a cheque by a person on an account maintained by him with the banker for the payment of any amount of money to another from that account.

ii. The cheque being drawn for the discharge in whole or in part of any debt or other liability.

iii. Presentation of the cheque to the bank within the period of six months or within the period of its validity.

iv. The return of the cheque by the drawee bank as unpaid either because the amount of money standing to the credit of that account is insufficient to honour the cheque or because it exceeds the amount arranged to be paid from that account.

v. A notice by the payee or the holder in due course making a demand for the payment of the amount to the drawer of the cheque within thirty days of the receipt of information from the bank in regard to the return of the cheque.

vi. Failure of the drawer of the cheque to make payment of the amount of money to the payee or the holder in due course within fifteen days of the receipt of the notice.

vii. Filing of the complaint within a month from the date of expiry of the grace period of fifteen days before a Metropolitan Magistrate or a Judicial Magistrate not below first class.

15. The present appeal has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

16. The complainant mentioned the address of the accused as resident of Block No. B-418 in the complaint. She denied in her cross-examination that the notice was not sent to the correct address. Jeet Ram (CW3) stated that the notice was returned with the endorsement not delivered and not met. The notice (Ext.CW4/C) and the registered letter (Ext.CW3/B) mention the address of the accused as Block No. B-420. Therefore, it is apparent that the notice was not sent to the

correct address. It was laid down by the Hon'ble Supreme Court in ***Sainaba*** (supra) that the complainant is required to send the notice to the correct address. It was observed:

> **20.** In ***K. Bhaskaran v. Sankaran Vaidhyan Balan, (1999) 7 SCC 510: 1999 SCC (Cri) 1284: (2000) 99 COMP CAS 268***, the issue before this Court was whether any cause of action arises if the notice sent by the complainant to the accused is returned as unclaimed. This Court held that '*giving of notice*' is different from '*receiving of notice*'. It was further held that where the sender has dispatched the notice by registered post to the correct address, service may be deemed to have been effected upon the sendee, unless the sendee establishes that the notice was not, in fact, served and that such non-service was not attributable to him. The relevant portion of the judgment in ***K. Bhaskaran*** (supra) is reproduced hereinbelow:
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> > *"24. No doubt Section 138 of the Act does not require that the notice should be given only by "post". Nonetheless, the principle incorporated in Section 27 (quoted above) can profitably be imported in a case where the sender has despatched the notice by post with the correct address written on it. Then it can be deemed to have been served on the sendee unless he proves that it was not really served and that he was not responsible for such non-service. Any other interpretation can lead to a very tenuous position, as the drawer of the cheque, who is liable to pay the amount, would resort to the strategy of subterfuge by successfully avoiding the notice.*
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> *25.* Thus, when a notice is returned by the sendee as unclaimed, such date would be the commencing date in reckoning the period of 15 days contemplated in clause (c) to the proviso of Section 138 of the Act. Of course, such reckoning would be without prejudice to the right

of the drawer of the cheque to show that he had no knowledge that the notice was brought to his address. In the present case, the accused did not even attempt to discharge the burden to rebut the aforesaid presumption."(emphasis supplied)

21. In ***D. Vinod Shivappa*** (supra), the issue before this Court was whether in a case where postal endorsement shows that the notice could not be served due to non-availability of the addressee or premises being locked, a cause of action may nonetheless arise for prosecution under Section 138 of the Act, 1881 on the basis of deemed service. This Court held that if every instance of non-availability were to be treated as absence of service, the very object of the statute would be defeated, since a dishonest drawer could conveniently evade service and thereby escape prosecution altogether. In arriving at this conclusion, this Court expressly approved the ratio laid down in ***K. Bhaskaran*** (supra). The relevant portion of the judgment in ***D. Vinod Shivappa*** (supra) is reproduced hereinunder:

> *"17. In **K. Bhaskaran v. Sankaran Vaidhyan Balan [(1999) 7 SCC 510: 1999 SCC (Cri) 1284 : (2000) 99 COMP CAS 268]*** the drawee had presented a cheque issued by the drawer but the same was dishonoured. A notice was sent by registered post, but the same was returned with the endorsement that the addressee was found absent on 3-2-1993, 4-2-1993 and 5-2-1993, and intimation was served at the addressee's house on 6-2-1993. Thereafter, the postal article remained unclaimed till 15-2-1993, and it was returned to the sender with a further endorsement "unclaimed". The complaint filed by the drawee was dismissed on the ground of territorial jurisdiction as also on the ground that since the notice had not been received by the drawer, there was no cause of action for filing the complaint. On appeal, the High Court

reversed the order of acquittal. The appellant approached this Court by special leave. This Court held in favour of the respondent on the question of territorial jurisdiction. On the question of notice, this Court considered the scheme of Section 138 of the Act by particular reference to clauses (b) and (c) of the proviso thereof. In view of the legislative scheme, it was held that the failure on the part of the drawer to pay the amount should be within 15 days "of the receipt" of the said notice. It was clear that the "giving of notice" in the context was not the same as the receipt of notice. "Giving" was the process of which the "receipt" was the accomplishment. This Court then observed : (SCC p. 519, para 20)

> "20. If a strict interpretation is given that the drawer should have actually received the notice for the period of 15 days to start running no matter that the payee sent the notice on the correct address, a trickster cheque drawer would get the premium to avoid receiving the notice by different strategies, and he could escape from the legal consequences of Section 138 of the Act. It must be borne in mind that the court should not adopt an interpretation which helps a dishonest evader and clips an honest payee as that would defeat the very legislative measure."

18. This Court noticed the position well settled in law that the notice refused to be accepted by the drawer can be presumed to have been served on him. In that case the notice was returned as "unclaimed" and not as refused. The Court posed the question, "Will there be any significant difference between the two so far as the presumption of service is concerned?" Their

> Lordships referred to Section 27 of the General Clauses Act and observed that the principle incorporated therein could profitably be imported in a case where the sender had dispatched the notice by post with the correct address written on it. Then it can be deemed to have been served on the sendee, unless he proves that it was not really served and that he was not responsible for such non-service. This Court dismissed the appeal preferred by the drawer, holding that where the notice is returned by the addressee as unclaimed, such date of return to the sender would be the commencing date in reckoning the period of 15 days contemplated in clause (c) of the proviso to Section 138 of the Act. This would be without prejudice to the right of the drawer of the cheque to show that he had no knowledge that the notice was brought to his address. Since the appellant did not attempt to discharge the burden to rebut the aforesaid presumption, the appeal was dismissed by this Court. *The aforesaid decision is significant for two reasons. Firstly, it was held that the principle incorporated in Section 27 of the General Clauses Act would apply in a case where the sender dispatched the notice by post with the correct address written on it, but that would be without prejudice to the right of the drawer of the cheque to show that he had no knowledge that the notice was brought to his address."* (emphasis supplied)

22. In ***C.C. Alavi Haji*** (supra), a three-Judge Bench of this Court was seized of a reference made by a Division Bench concerning the question of service of notice in terms of proviso (b) to Section 138 of the Act, 1881. The referring Division Bench had expressed the view that in ***D. Vinod Shivappa*** (supra), this Court did not advert to the fact that the presumption under Section 114 of the Evidence Act, 1872 is a rebuttable presumption and, therefore, it was necessary for the complainant to aver

that the addressee-drawer had deliberately avoided receipt of the notice or had knowledge thereof, in order to invoke such presumption.

23. The three-Judge Bench, however, affirmed the view taken in ***D. Vinod Shivappa*** (supra) and held that there is no distinction between Section 114 of the Evidence Act, 1872 and Section 27 of the General Clauses Act, 1897, both of which raise a presumption that service is effected when a notice is dispatched to the correct address by registered post. Consequently, it is unnecessary for the complainant to separately aver that the addressee deliberately avoided service. This Court further held that once the notice is correctly addressed to the drawer of the cheque, the mandatory requirement of statutory notice under proviso (b) to Section 138 of the Act, 1881 stands satisfied and it is for the drawer to rebut the presumption by demonstrating either that the notice was not sent to the correct address or that the postal endorsement is erroneous. The relevant portion of the judgment in ***C.C. Alavi Haji*** (supra) is reproduced hereinbelow:

> "15. Insofar as the question of disclosure of necessary particulars with regard to the issue of notice in terms of proviso (b) of Section 138 of the Act, in order to enable the court to draw a presumption or inference either under Section 27 of the GC Act or Section 114 of the Evidence Act, is concerned, there is no material difference between the two provisions. *In our opinion, therefore, when the notice is sent by registered post by correctly addressing the drawer of the cheque, the mandatory requirement of issue of notice in terms of Clause (b) of proviso to Section 138 of the Act stands complied with.* It is needless to emphasise that the complaint must contain basic facts regarding the mode and manner of the issuance of notice to the drawer of the cheque. It is well settled that at the

time of taking cognisance of the complaint under Section 138 of the Act, the court is required to be prima facie satisfied that a case under the said section is made out and the aforenoted mandatory statutory procedural requirements have been complied with. *It is then for the drawer to rebut the presumption about the service of notice and show that he had no knowledge that the notice was brought to his address or that the address mentioned on the cover was incorrect or that the letter was never tendered or that the report of the postman was incorrect.* In our opinion, this interpretation of the provision would effectuate the object and purpose for which proviso to Section 138 was enacted, namely, to avoid unnecessary hardship to an honest drawer of a cheque and to provide him an opportunity to make amends.

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17. It is also to be borne in mind that the requirement of giving of notice is a clear departure from the rule of criminal law, where there is no stipulation of giving notice before filing a complaint. Any drawer who claims that he did not receive the notice sent by post can, within 15 days of receipt of summons from the court in respect of the complaint under Section 138 of the Act, make payment of the cheque amount and submit to the court that he had made payment within 15 days of receipt of summons (by receiving a copy of complaint with the summons) and, therefore, the complaint is liable to be rejected. A person who does not pay within 15 days of receipt of the summons from the court along with the copy of the complaint under Section 138 of the Act, cannot obviously contend that there was no proper service of notice as required under Section 138, by ignoring the statutory

> presumption to the contrary under Section 27 of the GC Act and Section 114 of the Evidence Act. In our view, any other interpretation of the proviso would defeat the very object of the legislation. As observed in ***Bhaskaran case [(1999) 7 SCC 510: 1999 SCC (Cri) 1284 : (2000) 99 COMP CAS 268]***, if the "giving of notice" in the context of Clause (b) of the proviso was the same as the "receipt of notice", a trickster cheque drawer would get the premium to avoid receiving the notice by adopting different strategies and escape from legal consequences of Section 138 of the Act." (emphasis supplied)
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> **24.** Thus, it is evident that this Court has consistently held that there exists a rebuttable presumption of valid service of a statutory notice under Section 138 of the Act, 1881, where such notice is dispatched by registered post to the correct address of the drawer. Indeed, in *C.C. Alavi Haji* (supra), this Court categorically held that the requirement of '*giving of notice*' stands complied with once the notice is dispatched to the correct address. It is thereafter incumbent upon the drawer to rebut the presumption by establishing either that he had no knowledge of the notice having been brought to his address or that the notice was not sent to the correct address or that the postal endorsement is incorrect.

17. The judgments in ***K. Bhaskaran*** (supra), ***D. Vinod Shivappa*** (supra), ***Hiten P. Dalal*** (supra), ***M/s Madan & Co.*** (supra) ***and C.C. Alavi Haji*** (supra) have also taken a similar view, and many of them have been discussed by the Hon'ble Supreme Court in ***Sainaba*** (supra). Therefore, it is not necessary to individually refer to each of the judgments.

18. A heavy reliance was placed upon the observations of the Hon'ble Supreme Court in ***C.C. Alavi Haji*** (supra) that the accused can pay the money within 15 days of the receipt of the summons from the Court and the plea taken by her that she had not received the notice will not help her. These observations were made where the notice was sent to the correct address and cannot be applied to a case when the notice was not sent to the correct address. Thus, not much advantage can be derived from these observations.

19. Therefore, learned Trial Court had taken a reasonable view while acquitting the accused, and no interference is required with the reasonable view of learned Trial Court.

20. No other point was urged.

21. In view of the above, the present appeal fails and is dismissed. Pending applications, if any, also stand disposed of.

22. 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 is directed to furnish bail bond in the sum of ₹50,000/- with one surety of the like

amount to the satisfaction of the learned Registrar (Judicial) of this Court/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 on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

23. A copy of the judgment, along with the record of the learned Trial Court, be sent back forthwith.

(Rakesh Kainthla)
Judge

16th October, 2026
(Nikita)