2026:DHC:9493

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 30th September, 2026
Pronounced on: 27th October, 2026
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\# **CNR No. DLHC010115742020**

\+ CRL.REV.P. 122/2020 & CRL.M.As. 2006/2024, 10656/2024, 28105/2025, CRL.M.(BAIL) 256/2020

DR. I.A KHAN .....Petitioner

Through: Mr. Anand Prakash, Ms. Varsha Arya, Advocates with Petitioner (in-Person).

versus

STATE & ANR .....Respondents

Through: Mr. Shoaib Haider, APP for State.
Ms. Rakhi Dubey and Mr. Sandeep Dubey, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.:

1. The Petitioner challenges the judgment dated 30th January, 2020, passed by the Additional Sessions Judge, Shahdara, Karkardooma Courts, dismissing Criminal Appeal No. 27/2019 and affirming his conviction under Section 138 of the Negotiable Instruments Act, 1881 ["NI Act"]. The Trial Court convicted the Petitioner *vide* judgment dated 10th July, 2019, and, by order dated 19th July, 2019, sentenced him to ten months' simple imprisonment and directed him to pay compensation of INR 42 lakh to the Complainant/Respondent No. 2, with a further two months' simple imprisonment in default of payment.

Background

2. The dispute arises from a collaboration agreement dated 13th September, 2013, concerning property bearing No. 162, Vikram Enclave Extension, Village Pasonda, Ghaziabad, measuring 200 sq. yds. The Petitioner, the owner of the property, engaged the Complainant to develop it. Under the agreement, the Complainant was to construct the ground, upper ground, first and second floors. The ground and upper ground floors were to be retained by the Petitioner, while the Complainant was entitled to the first and second floors, along with roof rights over the second floor. Clause 6 of the agreement also provided for payment of INR 25 lakh by the Complainant to the Petitioner and recorded that INR 5 lakh had already been received as earnest money.

3. Differences subsequently arose between the parties concerning the construction work and their respective rights under the collaboration agreement. According to the Complainant, the parties resolved these differences through a settlement dated 1st February, 2016. Under the settlement, the Complainant agreed to relinquish his claim to the second floor and its roof rights in consideration of the Petitioner agreeing to pay INR 30 lakh. The Complainant relies upon a handwritten document dated 1st February, 2016 [Ex. CW-1/Q], which records the settlement and refers to the issuance of three cheques aggregating INR 30 lakh.

4. The Petitioner issued three cheques drawn on State Bank of India ["SBI"], each for INR 10 lakh. Cheque Nos. 315386 and 315387 were dated 1st March, 2016, while cheque No. 315388 was dated 3rd March, 2016. The cheques were deposited through ICICI Bank for collection. Cheque Nos. 315386 and 315388 were returned unpaid for insufficiency of funds. Cheque

No. 315387 was returned with an objection concerning alteration in the amount. The Complainant issued a demand notice dated 27th June, 2016. Following non-payment, the Complainant instituted a complaint under Section 138 NI Act.

Submissions

5. The Petitioner's principal contention is that the three cheques were issued as security for the Complainant's performance of the collaboration agreement and were to be returned upon completion of the construction. It is submitted that the Complainant failed to complete the construction, particularly on the ground floor, obtain the requisite sanction or pay the contractual amount of INR 25 lakh. The Petitioner contends that this amount remained unpaid and ought to have been adjusted against the alleged liability of INR 30 lakh. He disputes the settlement recorded in Ex. CW-1/Q and challenges the reliance placed, by the courts below, on that document despite DW-1 Imran Ali denying his signature. He also relies upon an affidavit attributed to the Complainant, which allegedly acknowledges that the cheques were furnished as security and were to be returned. The Petitioner challenges the rejection of his applications to lead further evidence and contends that the courts below failed to properly appreciate the evidence and the rebuttal of the statutory presumptions under the NI Act.

6. A separate objection concerns cheque No. 315387. The Petitioner submits that ICICI Bank returned the cheque with the endorsement 'Alteration in amount' and did not present it to the drawee bank, SBI. He contends that the alleged material alteration rendered the cheque *void* under Section 87 NI Act and that the RBI circular dated 22nd June, 2010, prohibited the acceptance through the Cheque Truncation System ["CTS"]

of cheques bearing prohibited alterations. On this basis, he submits that the statutory requirements for prosecution under Section 138 NI Act were not satisfied in respect of this cheque.

7. The Complainant supports the concurrent findings and states that they do not disclose any ground for interference in revision. He submits that the three cheques were issued pursuant to the settlement dated 1st February, 2016, recorded in Ex. CW-1/Q. Reliance is placed on the testimony of CW-2 Shamim Ahmed, who witnessed the settlement and delivery of the cheques, as well as the Petitioner's admitted signatures on the cheques and his statements in cross-examination concerning Ex. CW-1/Q. The Complainant contends that the Petitioner failed to establish that the cheques were issued as security. Further, the affidavit sought to be introduced as additional evidence during appeal is characterised as an afterthought, having neither been produced nor relied upon during trial.

Analysis

Scope of Revisional Jurisdiction and Statutory Presumptions

8. The scope of interference in the present proceedings is limited. The Trial Court's findings have been affirmed in appeal. In ***Kuntegowda v. Thurubaiah***[1], the Supreme Court reiterated that the revisional court does not act as an appellate court and must refrain from reappreciating the evidence or substituting its own conclusions for those of the courts below merely because an alternative view is possible. Interference is warranted where the findings are perverse, grossly erroneous, glaringly unreasonable, wholly unreliable or untenable in law; where the courts below have relied on immaterial or irrelevant material, or no material at all; or where they have

failed to consider relevant material or exercised their discretion arbitrarily or capriciously. The grounds urged against the conviction must be examined within these limits.

9. Equally settled is the operation of Sections 118(a) and 139 NI Act. Once the execution of the cheque is admitted or proved, the Court must presume, unless the contrary is proved, that the cheque was drawn for consideration and received towards the discharge, in whole or in part, of a legally enforceable debt or liability. These presumptions are rebuttable. The accused may rebut them by raising a probable defence on a preponderance of probabilities and may rely on the material brought on record by the Complainant. The accused need not necessarily lead independent evidence, but a mere denial or an unsupported explanation is insufficient. These principles stand explained in ***Rangappa v. Sri Mohan***[2], ***Bir Singh v. Mukesh Kumar***[3] and *Kuntegowda*.

10. In the present case, the Petitioner admits his signatures on all three cheques and their delivery to the Complainant. He contends that the cheques were furnished as security for the Complainant's obligations under the collaboration agreement. The Complainant relies on the subsequent settlement dated 1st February, 2016, as the basis of the Petitioner's liability. The question, therefore, is whether the Petitioner's defence, assessed against the evidence on record, raises a probable case sufficient to rebut the statutory presumptions.

Settlement and the Defence of Security Cheques

11. Ex. CW-1/Q is the document on which the Complainant relies to

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[1] 2026 SCC OnLine SC 1485.
[2] (2010) 11 SCC 441.

establish the settlement dated 1st February, 2016. It records a monetary settlement of INR 30 lakh and refers to the cheque(s) issued towards that amount. It also contemplates the return of the cheque(s) if the Petitioner paid the amount in cash within the stipulated period. These terms support the Complainant's case that the cheques represented an agreed monetary obligation arising from the settlement, rather than instruments that could be encashed only upon completion of all construction work.

12. The Complainant's reliance on Ex. CW-1/Q finds support in the testimony of CW-2 Shamim Ahmed, an attesting witness to the document. He deposed that the settlement was recorded in his presence and that the Petitioner delivered three cheques of INR 10 lakh each. During cross-examination, acknowledged that he had not inspected the entire interior of the building and could not say whether all finishing work had been completed. This limitation concerns his knowledge of the state of construction. It does not detract from his direct testimony that he witnessed the settlement and delivery of the cheques.

13. The Petitioner's challenge to Ex. CW-1/Q must also be considered in light of the evidence concerning its execution. DW-1 Imran Ali denied his signature on Ex. CW-1/Q. He stated that he had no knowledge of any monetary settlement between the parties and could not identify the Petitioner's signature. In his 313 CrPC statement, the Petitioner denied signing Ex. CW-1/Q. However, during cross-examination, he stated that he did not remember whether the document bore his signature. He also stated that the Complainant had never obtained his signature on any paper by coercion. The courts below assessed these circumstances alongside CW-2's

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[3] (2019) 4 SCC 197.

testimony. Their acceptance of the Complainant's account cannot, therefore, be held perverse merely because the Petitioner disputes the document.

14. The Petitioner's challenge also rests on the alleged non-completion of the construction work and the non-payment of the contractual amount of INR 25 lakh. He contends that the latter amount could be adjusted against the liability under the cheques. The Appellate Court noted that this plea had not been raised at the stage of framing notice, in the application under Section 145(2) NI Act or during the cross-examination of the Complainant's witnesses. It further noted that the settlement recorded in Ex. CW-1/Q arose from the parties' differences concerning the construction work and required the Complainant to relinquish his claim to the second floor and its roof rights in return for INR 30 lakh. The allegations of incomplete construction do not, by themselves, establish that the subsequent settlement was never reached or that the liability under it stood adjusted against the alleged contractual dues.

15. The Trial Court relied on Clause 5 of the collaboration agreement, which entitled the Complainant to recover construction and renovation expenses in the event of a dispute. The clause does not, by itself, quantify those expenses or establish a liability of INR 30 lakh. The liability under consideration, however, arises from the subsequent settlement recorded in Ex. CW-1/Q. The Appellate Court also considered CW-1's evidence, CW-2's testimony concerning the settlement and delivery of the cheques, and the Petitioner's admission of his signatures on the cheques. Viewed cumulatively, this evidence provides an independent basis for the finding that the cheques were issued pursuant to the settlement. The absence of quantified construction expenses does not, by itself, displace that basis or

rebut the statutory presumptions under the NI Act.

Applications to Lead Further Evidence

16. The Petitioner further challenges the rejection of his application under Section 391 CrPC to introduce an affidavit dated 26th April, 2016, allegedly executed by the Complainant, acknowledging that the cheques had been furnished as security. The Petitioner explained that the affidavit could not be produced during trial because he had shifted residence and his father had passed away. The Appellate Court noted that the Petitioner had neither relied on the alleged affidavit during the cross-examination of the Complainant's witnesses nor raised its execution in his application under Section 145(2) NI Act or his 313 CrPC statement. It also noted that paragraph 5 of the affidavit was completely erased and rejected the application, treating the document as an afterthought. Section 391 CrPC empowers the appellate court to take additional evidence where it thinks it necessary; it does not confer an unfettered right to introduce evidence that was not relied upon during trial. In the present case, the reasons for the belated production of the affidavit, the absence of any earlier reliance on it and the condition of the document were considered by the Appellate Court. Its refusal to admit the affidavit does not disclose any material irregularity warranting interference in revision. The disputed affidavit, having not been admitted and proved in evidence, cannot itself be treated as establishing the Petitioner's defence.

17. The Trial Court also declined the Petitioner's application under Section 311 CrPC, moved at the stage of final arguments, seeking to examine further witnesses to establish that construction on the ground floor remained incomplete, finishing work on the other floors was pending and

possession of the building had not been handed over. By order dated 29th June, 2019, the Trial Court declined the application, noting the absence of a sufficient explanation for seeking to lead further evidence at that stage. The Appellate Court, in that regard, further noted that the Petitioner had not raised the defence concerning non-delivery of possession during trial. In any event, the state of construction has been addressed through the evidence brought on record, including the testimony of CW-2 and photographs of the property. Keeping in view the evidence led and the distinct liability arising from the subsequent settlement, the refusal to summon further witnesses does not occasion a failure of justice or disclose any material irregularity warranting interference in revision.

Cheque No. 315387

18. The Petitioner has raised a separate objection concerning cheque No. 315387. Unlike the other two cheques, which were returned for insufficiency of funds, the communication dated 31st May, 2016, issued by ICICI Bank [Ex. CW-1/D], records an objection concerning 'alteration in amount' and states that the cheque was being returned for rectification. On this basis, the Petitioner contends that the instrument was rendered *void* under Section 87 NI Act. It is further argued that the cheque was returned by the collecting bank itself, without ever being presented to the drawee bank, SBI, and therefore could not attract Section 138.

19. Section 87 NI Act provides that a material alteration renders a negotiable instrument *void* against a party who did not consent to it, unless the alteration was made to carry out the common intention of the original

parties. In ***Veera Exports v. T. Kalavathy***[4], the Supreme Court held that whether an alteration was made by the drawer or with the drawer's consent is a question of fact that must be established by evidence where disputed. Further, the Supreme Court in ***Bir Singh v. Mukesh Kumar***[5] ruled that where a drawer voluntarily signs and delivers a cheque, its subsequent completion by filling in the particulars does not, by itself, constitute an alteration, provided there is no change to an existing entry such as the amount, date or name of the payee. The relevant distinction, therefore, is between completing a voluntarily delivered signed cheque and materially altering an existing entry without the drawer's consent.

20. In the present case, the Petitioner admittedly signed and delivered all three cheques to the Complainant. During CW-1's cross-examination, it was suggested that the Complainant had filled in the amount on Ex. CW-1/A and written the digits "100". CW-1 denied both suggestions. The Petitioner did not establish that an amount already entered on the cheque had subsequently been altered without his consent. Nor did he explain in his own evidence when or how the alleged alteration was made. His defence remained that the cheques had been issued as security and misused because the Complainant had failed to fulfil the collaboration agreement. In these circumstances, the suggestions put to CW-1, having been denied and unsupported by other material establishing an unauthorised alteration, do not suffice to establish that the cheque was rendered *void* under Section 87 NI Act.

21. The Supreme Court has recently considered the effect of a material

[4] (2002) 1 SCC 97.
[5] (2019) 4 SCC 197.

alteration apparent on the face of a cheque in ***Rajasab v. Hulagappa***[6]. There, upon a bare perusal of the cheque, the Court found that the words "one Lak" had been inserted before the words "Ten Thousand only" and the numerical digit "1" before "10,000/-", thereby altering the amount from INR 10,000 to INR 1,10,000. The Court held that where a material alteration is patently clear on the face of the instrument, the courts ought not to insist on further evidence to establish it.

22. The present case stands on a different evidentiary footing. For ease of reference, the relevant cheque [Ex. CW-1/A] is reproduced as follows:



A perusal of Ex. CW-1/A shows that the amount written in words is "Ten Lakh only" and the amount in figures is "₹100,0000/-". The two entries correspond. CW-1 denied having filled in the amount or inserted the digits "100". Their presence in the numerical entry, without evidence that an existing amount was changed, does not establish an alteration of the kind found in *Rajasab*. The bank's endorsement 'alteration in amount' on Ex.

[6] CRL. A. No. 3239/2026, decided on 17th July, 2026.

CW-1/D does not, by itself, establish an unauthorised material alteration rendering the cheque *void* under Section 87 NI Act.

23. The further contention that cheque No. 315387 never reached SBI also requires consideration. The Reserve Bank of India's circular dated 22nd June, 2010 directs collecting banks not to accept cheques bearing prohibited alterations for presentment under CTS. Such a cheque may, therefore, be returned without being forwarded to the drawee bank. Ex. CW-1/D, however, records only that the cheque was returned for rectification on account of an alteration in the amount. It does not state whether the cheque was forwarded to SBI. Particularly, while the Petitioner questioned CW-1 about the writing of the amount, he did not raise the objection of non-presentation before either court below or in the original revision petition. The contention emerged only in the subsequent written submissions. While a question of law may be raised at this stage, the assertion that this particular cheque was withheld from clearing requires a factual foundation. The record does not establish that assertion merely because the communication was issued by ICICI Bank.

24. The Petitioner's conduct following the statutory notice is also relevant. The demand notice dated 27th June, 2016 expressly referred to the return of cheque No. 315387 on account of alteration. The Trial Court found that the notice had been dispatched to the Petitioner's correct addresses and drew the presumption of service. The Petitioner did not reply alleging an unauthorised alteration or make payment. When the 251 CrPC notice was served on him, his explanation was that the cheques had been issued as security and that no liability arose under the collaboration agreement. In

Laxmi Dyechem v. State of Gujarat & Ors.[7], the Supreme Court held that the contingencies specified in Section 138 cannot be interpreted strictly or literally. The Court explained that the statutory notice affords the drawer an opportunity to arrange payment of the cheque amount and that failure to pay within the prescribed period may render the dishonour punishable, subject to the other statutory requirements, including the existence of a legally recoverable debt or liability. The decision does not, however, establish that every technical banking objection attracts Section 138. The Petitioner's silence is neither an admission of alteration nor a substitute for proof of the statutory ingredients. It is, nevertheless, a relevant circumstance in assessing the credibility of the defence now advanced, particularly when the underlying liability and voluntary delivery of the cheque have been found established.

25. Based on the material on record, the Court finds no sufficient ground to disturb the Petitioner's conviction.

Sentence and Compensation

26. The Trial Court sentenced the Petitioner to 10 months' simple imprisonment and directed him to pay compensation of INR 42 lakh, with a further two months' simple imprisonment in default of payment.

27. The compensation of INR 42 lakh comprises the aggregate cheque amount of INR 30 lakh and an additional INR 12 lakh. In ***R. Vijayan v. Baby & Anr.***[8], the Supreme Court emphasised that compensation in cheque-dishonour cases should be practical and realistic. The Court observed that the amount of compensation should ordinarily account for the cheque

[7] (2012) 13 SCC 375.
[8] (2012) 1 SCC 260.

amount and reasonable interest for the period of deprivation, indicating simple interest at 9% per annum as a reasonable quantum of loss.

28. In the present case, the cheques were dishonoured in 2016, and the amount remained unpaid when the Trial Court imposed sentence in July 2019. The liability remains unsatisfied despite deposits made pursuant to judicial orders. Having regard to the amount involved and the prolonged deprivation of payment, the compensation of INR 42 lakh cannot be regarded as excessive or unreasonable. The Court, therefore, finds no justification to interfere with its quantum.

29. The substantive sentence of imprisonment, however, warrants some modification. The Trial Court declined to show leniency principally on the ground that cheque-dishonour cases were increasing and that punishment was necessary to deter such offences. While these considerations are relevant, the sentence must also reflect the circumstances of the individual case. The transaction arose from a property-development arrangement that subsequently culminated in a monetary settlement. The Petitioner's family circumstances were placed before the Trial Court. Further, an aggregate sum of INR 21 lakh has since been deposited during the appellate and revisional proceedings. These deposits do not discharge the liability, but they are relevant to the question of sentence. Having regard to these circumstances and the substantial compensation that remains payable, the Court considers that 6 months' simple imprisonment would adequately serve the ends of justice. The default sentence of two months' simple imprisonment shall remain undisturbed.

Conclusion and Consequential Directions

30. For the foregoing reasons, the Court finds no ground to interfere with

the concurrent findings of conviction recorded by the Trial Court and affirmed by the Appellate Court. The revision petition is, however, partly allowed to the limited extent of modifying the substantive sentence of imprisonment from 10 months to 6 months. The conviction under Section 138 of the NI Act, the direction to pay compensation of INR 42 lakh and the default sentence of two months' simple imprisonment are affirmed.

31. During the appellate proceedings, pursuant to the directions issued by the Appellate Court, the Petitioner deposited INR 8,40,000 before the Trial Court. A further sum of INR 12,60,000/- was deposited with the Registry of this Court pursuant to the order dated 21st February, 2024.

32. In view of the final disposal of the revision petition, CRL.M.A. 10656/2024, filed by Respondent No. 2 seeking release of INR 12,60,000 deposited with the Registry of this Court, is allowed. The Registry shall, upon verification and compliance with the requisite formalities, release the said amount, together with accrued interest, if any, to Respondent No. 2. Any amount received by Respondent No. 2 pursuant to this direction, including accrued interest, shall be adjusted against the compensation awarded. The balance amount, if any, shall remain recoverable in accordance with law.

33. As regards the sum of INR 8,40,000 deposited before the Trial Court, Respondent No. 2 shall be at liberty to move an appropriate application before the concerned Court, in accordance with law. Any amount received by Respondent No. 2 from this deposit, including accrued interest, shall also be adjusted against the compensation awarded.

34. Copy of the order be communicated to the Trial Court for necessary information and compliance.

35. The revision petition and all pending applications stand disposed of in the above terms.

SANJEEV NARULA, J

OCTOBER 27, 2026/as