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

Reserved on: May 22, 2026
% ***Pronounced on: May 29, 2026***

\+ **CRL.REV.P. 203/2018, CRL.M.(BAIL) 409/2018**

RASTRAVYAPI RAMDHARI SINGH DINKAR SAMITI NYAS & ORS **.....Petitioners**

Through: Mr. Vinay Kumar and Ms. Sangita Singh, Advocates with petitioners in person

Versus

RISHI BANSAL HUF **.....Respondent**

Through: Mr. S.K. Gupta, Adv.

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. By virtue of the present revision petition under *Section(s) 401/397* of the Criminal Procedure Code, 1973, the petitioners seek setting aside of the judgment dated 08.02.2018 (***impugned judgment***) passed by the learned Special Judge (PC Act), CBI -08, Central District, Tis Hazari Courts, Delhi (***learned Appellate Court***) in Criminal Appeal No.55058/2016 entitled '*Rashtravyapi Ramdhari Singh Dinkar Samriti Nyas & Ors. vs. M/s. Rishi Bansal, HUF*', whereby the appeal preferred by the petitioners was dismissed and the judgment dated 27.10.2016 was upheld as also *vide* order on sentence of even date, the sentence of simple imprisonment for four months awarded *vide* order dated 28.11.2016 passed by learned Metropolitan Magistrate (NI Act), Central-01, Tis Hazari Courts, Delhi (***learned Trial Court***) on a complaint made by the respondent/ complainant

under *Section 138* of the Negotiable Instruments Act, 1881 (***NI Act***), was set aside.

2. *Briefly put*, the respondent/ complainant filed a complaint case for an offence punishable under *Section 138* of the NI Act against the petitioners before the learned Trial Court wherein it was alleged that the petitioner nos.2 and 3 approached the respondent for managing an event to be organised by them at Ramleela Maidan Ground, New Delhi between 14.12.2012 to 23.12.2012, wherein the respondent was to make temporary arrangements for tent, sanitation, light, and sound system. Upon negotiation, the respondent agreed to carry out the said work for a consideration of Rs.40 lakhs which is disputed to be Rs.15 lakhs by the petitioners. In discharge of its liabilities, petitioner nos.2 and 3 acting on behalf of petitioner no.1, issued two cheques in favour of the respondent i.e. cheque no.854291 dated 08.12.2012, and cheque no.854294 dated 12.12.2012, for a sum of Rs.5 lakhs and Rs.10 lakhs respectively, both drawn on Canara Bank, Nalanda, Bihar. The said cheques, upon presentation, dishonoured with remarks '*insufficient funds*'. Thereafter, the complainant issued a Legal Notice dated 07.01.2013. Despite acknowledging the same with a reply dated 05.01.2013, the petitioners failed to make payment within the stipulated period, leading to institution of the complaint under *Section 138* of the NI Act.

3. Upon conclusion of trial, the learned Trial Court convicted the petitioners for the offence under *Section 138* NI Act *vide* judgment dated 27.10.2016 and *vide* order dated 28.11.2016 sentenced the petitioner nos.2 and 3 to undergo four months of simple imprisonment each as also directed the petitioners to pay a fine of Rs.6 lakhs each i.e. a total amount of

Rs.18,00,000/-, out of which, a fine of Rs.10,000/- each was to be deposited with the State and the remaining Rs.5,90,000/- each was to be paid to the complainant. In default of payment of fine, the petitioner nos.2 and 3 were to undergo a further simple imprisonment for three months each.

4. Aggrieved thereby, the petitioners preferred an appeal before the learned Appellate Court, which came to be dismissed *vide* the impugned judgment dated 08.02.2018, however, the sentences imposed *vide* order dated 28.11.2016 was set aside.

5. Learned counsel for the petitioners submitted that the impugned judgment has been passed based on conjectures and surmises as also without due appreciation of the evidence placed on record therein. The learned counsel submitted that the complainant's entire case rests upon Ex. CW-1/3, i.e. the agreement allegedly executed between the parties, which has heavily been relied upon by the learned Trial Court, however, while upholding the conviction, the learned Appellate Court neither returned any finding regarding the admissibility or evidentiary value of the said document nor properly dealt with the same.

6. Learned counsel also submitted that the Courts below failed to appreciate that the payments made by the petitioners were in discharge of the cheques in question. The learned counsel then submitted that while the learned Appellate Court rightly acknowledged that payment of Rs.5 lakhs made through DD No.33381 was in lieu of the cheque for Rs.5 lakhs i.e. Ex. CW-1/4, it failed to consider the payment of Rs.10 lakhs made to the complainant's father. The learned counsel further submitted that though, DW4 i.e. the complainant's father, admitted receipt of Rs.10 lakhs under

his signatures, however, it was ignored that he subsequently stated that the said amount was paid towards ground levelling work at Ram Leela Maidan, which is contradictory and demonstrates active collusion between him and the complainant.

7. Learned counsel further submitted that the complainant misrepresented itself as a HUF concern and induced the petitioners into believing that the complainant's father was associated with and managing the said business and acting on such representation. The petitioners paid an amount of Rs.10 lakhs to the complainant's father under the *bona fide* belief that the payment was being made towards the HUF.

8. Lastly, learned counsel submitted that the learned Appellate Court erred in invoking *Section 114* of the Indian Evidence Act against the petitioners, as the surrounding circumstances, such as nature, name, relationship, documents, etc. were clearly suggestive of the two acting in concert and not as independent entities. In fact, the presumption under the NI Act is rebuttable presumption, and once the same has been rebutted, the case has to be tested on preponderance of probability, hence, the receipt of payment of Rs.10 lakhs by the complainant's father ought to have been given due weightage.

9. *Per contra*, learned counsel for the complainant praying for dismissal of the present revision petition submitted that there is no illegality/ infirmity in the impugned judgment. The learned counsel submitted that the factum *qua* issuance of cheques in question by the petitioners, their presentation in the bank for encashment and subsequent dishonour due to the reason '*insufficient funds*', are not in dispute and are matters of record.

10. Learned counsel submitted that DW4 i.e. the complainant's father was not a part of the HUF and even otherwise, no evidence to rebut the same has been produced by the petitioners. Further, the receipt of payment, i.e., Ex. CW1/R1, which is alleged to be the evidence to discharge the liability arising from cheque being Ex. CW-1/5, does not state that the payment of Rs.10 lakhs was made towards or in lieu of the said cheque and/ or that DW-4 is receiving the said amount on behalf of the complainant.

11. This Court has heard the learned counsel for the parties and perused the documents on record.

12. It is a settled proposition of law, and as evident from the ingredients of *Section 138* of the NI Act, the following have to be essentially borne in mind while proceeding therewith:-

a) The cheque(s) in issue must be drawn by a person from an account maintained by him/ her with a banker;

b) The cheque(s) in issue must be towards the payment of any amount, be it in whole or in part, in discharge of any legally enforceable debt or liability;

c) Presentation of the cheque(s) to the bank;

d) The return of the cheque(s) 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(s) or that it exceeds the amount arranged to be paid from that account;

e) 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 *30 days* of the receipt of information from the bank in regard to the return of the cheque(s); and

f) The drawer of the cheque(s) failing to make payment of the amount of money to the payee or the holder in due course within *15 days* of the receipt of the notice.

13. As per facts involved, the complainant had duly discharged his initial burden of showing that there existed a *prima facie* case by satisfying the basic ingredients provided under *Section 138* of the NI Act. It is also an admitted position that both the cheques in question are drawn on the bank of petitioner no.1 and bear the signatures of its president, the petitioner no.2 and its secretary, the petitioner no.3. As such, it cannot be disputed that the presumption under *Section 118(a)* and *Section 139* of the NI Act clearly stood attracted. Therefore, the cheques were, indeed, issued in discharge of a debt/ liability. The petitioners have been unable to show anything that it was otherwise. Under such a scenario, the burden of proof to rebut the same by raising a probable defence either by leading direct evidence or by pointing out serious contradictions or improbabilities in the complainant's case, squarely lay upon the petitioners [***Rajesh Jain v. Ajay Singh : (2023) 10 SCC 148***]. The petitioners have been unable to discharge the said onus.

14. In fact, a perusal of the records reveal that both the learned Appellate Court as well as the learned Trial Court have categorically held that the petitioners failed to raise any ground by bringing any cogent evidence to rebut the said presumptions.

15. Regarding rebuttal *qua* cheque being Ex. CW-1/4 drawn for a sum of Rs.5 lakhs, this Court agrees with the findings rendered by the learned Appellate Court that since the complainant admitted receipt of instrument

bearing No.33381 dated 10.12.2012 for a sum of Rs.5 lakhs, even though he suggested that the said payment was not in lieu of the liability *qua* the said cheque, however the petitioners have, by relying upon the instrument bearing No.33381 dated 10.12.2012 succeeded in rebutting the presumption. In fact, the Appellate Court in the impugned judgment has held as under:-

> *"15. So far as cheque Ex. CW1/4 for a sum of Rs. 5 lacs issued by appellants in favour of respondent is concerned, case of respondent is that they had handed over draft of Rs. 5 lacs on 10.12.2012 in lieu of cheque Ex. CW1/4. Respondent during cross-examination admitted having received instrument bearing No. 33381 amounting to Rs. 5 lacs dated 10.12.2012. However, respondent denied the suggestion that payment through instrument No. 33381 was made in lieu of dishonoured cheque Ex. CW1/4. Once it was proved by the appellants that demand draft of Rs. 5 lacs has been handed over by them to the respondent, it was for the appellants to explain as to for what purpose, the said demand draft was given. Appellants cannot escape the responsibility by merely deposing that instrument bearing No. 33381 was not given against cheque Ex. CW1/4. Since it has already been held that agreement Ex. CW1/3 is inadmissible evidence, respondent cannot contend that the said demand draft was issued by appellants in discharge of other liability. It is, therefore, concluded that appellants have succeeded in rebutting the presumption that cheque Ex. CW1/4 was issued for discharge of any debt or other liability. It has been proved on record that appellants handed over a demand draft of Rs. 5 lacs to respondent in lieu of cheque Ex. CW1/4, which was also for the same amount. i.e. Rs. 5 lacs."*

16. As such, the petitioners have been able to demonstrate some arbitrariness/ patent error apparent on face of the record in the impugned judgment qua the instrument bearing No.33381 dated 10.12.2012. This

Court finds that the learned Appellate Court, despite the aforesaid finding, has not accorded benefit thereof to the petitioners, and wrongly upheld the order passed by the learned Trial Court. The impugned judgment, thus, needs interference.

17. However, regarding rebuttal *qua* cheque being Ex. CW-1/5 drawn for a sum of Rs.10 lakhs, a perusal of the record reveals that both the Appellate Court as well as the learned Trial Court have categorically held that the petitioners failed to raise any ground by bringing any cogent evidence to rebut the said presumption. Therefore, the petitioners cannot be allowed to agitate the very same contentions which have been expressly denied by both the Appellate Court as well as the learned Trial Court. Since this is not an appeal, this Court cannot reopen the same and/ or try to read into what is/ are under challenge. As held in ***Malkeet Singh Gill v. State of Chhattisgarh: (2022) 8 SCC 204*** and ***State of Gujarat v. Dilipsinh Kishorsinh Rao: (2023) 17 SCC 688***, the powers conferred upon the revisional Court are to be exercised sparingly and only in cases where the impugned judgment suffers from illegality/ perversity/ arbitrariness/ patent error. It was incumbent for the petitioners to show any such reasoning calling for interference by this Court, which, they have failed to discharge. As such, this Court ought not to interfere with the findings rendered delivered by both learned Appellate Court as well as the learned Trial Court.

18. In any event, in his examination recorded before the learned Appellate Court, the PW4 i.e. father of the complainant has categorically denied the suggestion that Rs.10 lakhs paid in cash was for the discharge of liability of cheque being Ex. CW-1/5. In fact, he went onto state that the

said amount was for payment for the ground levelling work carried out and the material supplied by him at the Ram Leela Maidan. There was/ is no plausible basis of the petitioners paying an amount of Rs.10 lakhs, and that too in cash to the complainant's father instead of the complainant.

19. Even otherwise, it is pertinent to note that the petitioners have, *admittedly*, never taken any concrete steps for return of cheque being Ex. CW-1/5, either by lodging a police complaint or by issuing a stop-payment instruction to their concerned bank. Thus, the story propounded by the petitioners in the absence of any cogent evidence does not inspire confidence, especially, whence faced with the well-reasoned judgment(s) delivered by both learned Appellate Court as well as the learned Trial Court.

20. Based on the afore-going findings, the impugned judgment regarding the findings rendered qua the cheque being Ex. CW-1/4 drawn for a sum of Rs.5 lakhs are upheld, however since the petitioners have not accorded any benefit *qua* the same, the compensation of Rs.18 lakhs awarded by the learned Trial Court, which has been upheld by the learned Appellate Court, is reduced to Rs.12 lakhs instead.

21. Accordingly, for the aforesaid reasons and analysis, the present petition, along with pending applications, is dismissed, with no order as to costs.

SAURABH BANERJEE, J.

MAY 29, 2026/So/DA