



2026:DHC:6111



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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Date of decision: 28.7.2026**Uploaded on: 30.7.2026*

+ CRL.L.P. 19/2026 &amp; CRL. M.A. 11264/2026

ADITYA GUPTA

.....Petitioner

Through: Mr.Dawneesh Shaktivastsa & Mohd.  
Yasin, Advs.

versus

VIJAYENDER SHARMA

.....Respondent

Through: None.

**CORAM:****HON'BLE MS. JUSTICE MADHU JAIN****Madhu Jain, J. (Oral)**

1. This hearing has been done through hybrid mode.

**CRL.M.A. 11265/2026 (exemption)**

2. Allowed, subject to all just exceptions. Application is disposed of.

**CRL.L.P. 19/2026**

3. The present appeal has been preferred under Section 419 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 378 Cr.P.C.) assailing the judgment dated 29.01.2026 passed by the learned Sessions Judge-02-cum-Special Judge (NDPS Act), North-West District, Rohini Courts, Delhi in Criminal Appeal No. 134/2025, whereby the appeal preferred by the respondent/accused was allowed and the judgment of conviction dated 26.04.2025 and the order on sentence dated 03.05.2025 passed by the learned JMFC (NI Act), Digital Court-02, North-West District, Rohini Courts, Delhi in Complaint Case No. 1450/2022 titled ***Aditya Gupta v. Vijender Sharma*** was set aside and the respondent was



acquitted.

4. The case of the appellant/complainant, is that during the COVID-19 pandemic, he intended to commence the business of purchase and sale of 3M masks. It was alleged that through the Special Power of Attorney holder of the appellant/complainant, Shri Vivek Garg, the respondent shared that he was engaged in the business of importing 3M masks and assured supply upon receipt of an advance amount. Acting upon such representation, the appellant transferred an aggregate amount of Rs.35,00,000/- to the respondent's business entity through RTGS in May 2020. It was further alleged that despite repeated assurances, the masks were never supplied.

5. According to the appellant, although certain amounts were subsequently remitted by the respondent, the respondent ultimately issued a cheque bearing No. 157774 dated 03.01.2022 for a sum of Rs.25,00,000/- in favour of the appellant. Upon presentation, the cheque was dishonoured on 19.03.2022 with the remarks "Funds Insufficient". Thereafter, a legal demand notice dated 15.04.2022 was issued to the respondent. Since payment was not made within the statutory period, a complaint under Section 138 NI Act came to be instituted before the learned Trial Court.

6. During trial, the appellant examined his Special Power of Attorney holder, Shri Vivek Garg, as CW-1, who relied upon the cheque in question, the return memo, bank statement, legal notice, postal receipts, the Special Power of Attorney, an assurance letter allegedly issued by the respondent, WhatsApp conversations and a certificate under Section 65B of the Indian Evidence Act in support of the complaint. The respondent did not lead any defence evidence. Upon appreciation of the material on record, the learned Trial Court, by judgment dated 26.04.2025, convicted the respondent for the



offence punishable under Section 138 of the NI Act. Thereafter, by order on sentence dated 03.05.2025, the respondent was directed to pay a fine of Rs.25,00,000/-, together with simple interest @ 7% per annum payable to the complainant as compensation, with a default sentence of twenty days' simple imprisonment.

7. Aggrieved thereby, the respondent preferred Criminal Appeal No. 134/2025 before the learned Sessions Judge. By the impugned judgment dated 29.01.2026, the learned Appellate Court allowed the appeal, set aside the judgment of conviction and the order on sentence and acquitted the respondent.

8. The learned Appellate Court, *inter alia* held that the statutory demand notice was not in conformity with the requirements of Section 138 of the NI Act, that admittedly part-payments had been received prior to presentation of the cheque without any endorsement as contemplated under Section 56 of the Act; that reliance placed by the Trial Court upon the WhatsApp conversations was unsustainable in view of deficiencies in the certificate under Section 65B of the Indian Evidence Act and that the learned Trial Court had also erred in comparing disputed signatures without following the appropriate course recognised by law.

9. The appellant has, therefore, approached this Court contending that the judgment of acquittal suffers from errors of law and warrants interference in exercise of appellate jurisdiction.

10. Learned counsel for the appellant submits that the learned Appellate Court erred in reversing the well-reasoned judgment of conviction passed by the learned Trial Court. It is submitted that the respondent had admitted his signatures on the cheque in question and, therefore, the statutory



presumption under Sections 118(a) and 139 of the Negotiable Instruments Act stood attracted. According to the appellant, the respondent failed to rebut the said presumption by raising any probable defence.

11. It is further submitted that the learned Appellate Court incorrectly applied Section 56 of the Negotiable Instruments Act. Learned counsel contends that the part-payments admittedly received by the complainant were made prior to the issuance of the cheque and, therefore, no endorsement under Section 56 NI Act, was required.

12. It is further submitted that the learned Appellate Court also erred in holding that the statutory legal notice was defective. Learned counsel submits that the notice clearly disclosed the transaction between the parties, the particulars of the dishonoured cheque and the amount covered by the cheque, besides calling upon the respondent to make payment within the statutory period. Merely because the notice also contained a claim towards interest, damages or other incidental amounts, the same would not invalidate the notice under Section 138 of the Act.

13. Learned counsel also submits that the finding regarding the statutory legal notice is unsustainable. It is contended that the notice clearly specified the cheque details, the transaction and the amount payable under the cheque. Merely because it also contained claims towards interest or other incidental amounts would not invalidate the notice under Section 138 of the Negotiable Instruments Act. Reliance is placed upon ***Suman Sethi v. Ajay K. Churiwal & Anr.***, (2000) 2 SCC 380 and ***Kaveri Plastics v. Mahdoom Bava Baharudeen Noorul***, 2025 INSC 1133.

14. Learned counsel for the petitioner further submitted that the learned Appellate Court was not justified in discarding the WhatsApp conversations



on the ground of an alleged defect in the certificate under Section 65B of the Indian Evidence Act, as the said material was only corroborative in nature.

15. He further submits that the learned Appellate Court erred in observing that the learned Trial Court had improperly compared the signatures on Ex. CW-1/8, particularly when the respondent had admitted his signatures on the cheque.

16. I have heard the learned counsel for the petitioner and have perused the record.

17. The present appeal is directed against the judgment dated 29.01.2026 whereby the learned Appellate Court set aside the conviction recorded by the learned Trial Court in a complaint under Section 138 NI Act and acquitted the respondent. The principal grievance of the appellant is that the learned Appellate Court erred in holding that there was non-compliance with the requirements of Section 56 of the NI Act and that the statutory legal notice was defective.

18. At the outset, it is necessary to note that the scope of interference in an appeal against acquittal is well settled. Though this Court possesses the jurisdiction to re-appreciate the evidence on record, interference with an order of acquittal is warranted only where the findings recorded by the Appellate Court are shown to be manifestly erroneous, perverse, or contrary to the material available on record. Merely because another view may also be possible would not furnish a ground to reverse an order of acquittal.

19. In the present case, the learned Appellate Court has recorded a categorical finding that the complainant had himself admitted receipt of part-payments from the respondent prior to the presentation of the cheque. The complaint itself records receipt of amounts aggregating to



Rs.12,51,000/- before the cheque was presented for encashment. Despite these admitted payments, the cheque continued to be presented for its original amount without any endorsement recording the part-payments.

20. The learned Appellate Court has examined the effect of such admitted part-payments in the light of Section 56 of the NI Act. It has held that where part payment is received prior to presentation of the cheque, appropriate endorsement on the instrument assumes significance. The Appellate Court has relied upon the decisions of the Supreme Court in judgement in ***DashrathbhaiTrikambhai Patel v. Hitesh Mahendrabhai Patel***, (2023) 1 SCC 578, and judgement of this court in ***CRL.L.P. 493/2017*** titled ***Starkey Laboratories India Pvt. Ltd. v. Sanjay Gujral***, while arriving at the said conclusion. This Court finds no infirmity in the reasoning adopted. The admitted receipt of part-payments was a matter emerging from the complainant's own pleadings and was not a disputed question requiring elaborate appreciation of evidence.

21. Equally significant is the finding returned by the learned Appellate Court with regard to the statutory legal notice. A notice under Section 138 of the NI Act is intended to communicate to the drawer the precise liability sought to be recovered under the dishonoured cheque. The learned Appellate Court noticed that, instead of confining the demand to the cheque amount, the notice raised claims towards alleged losses, interest and other amounts running into more than Rs.1 crore. The demand, therefore, was not confined to the amount covered by the dishonoured cheque but included several additional claims. Upon examining the contents of the notice, the learned Appellate Court concluded that the demand was neither specific nor unequivocal insofar as the cheque amount was concerned. This finding is



borne out from the record and cannot be said to suffer from any perversity.

22. The reliance placed by the appellant upon the decision of the Supreme Court in **Suman Sethi** (*supra*) also does not advance the appellant's case. Though the said decision recognises that a notice would not become invalid merely because incidental claims are made in addition to the cheque amount, the notice must nevertheless contain a clear and unequivocal demand for payment of the amount covered by the dishonoured cheque. The learned Appellate Court, upon examining the notice in the present case, has found that the demand itself was ambiguous and did not satisfy the statutory requirement. This finding is essentially one based upon the contents of the notice and does not call for interference.

23. The learned Appellate Court has also examined the reliance placed by the learned Trial Court upon the alleged WhatsApp conversations. It has observed that the certificate produced under Section 65B of the Indian Evidence Act did not satisfy the statutory requirements, as it neither identified the source device nor disclosed the particulars necessary to establish the authenticity of the electronic record. Even otherwise, the contents of the alleged chats did not conclusively establish either the agreed rate of interest or the precise outstanding liability. This Court finds no error in the said reasoning.

24. The learned Appellate Court has further noticed that the learned Trial Court had compared the disputed signatures appearing on Ex. CW-1/8 with the admitted signatures of the respondent while recording its findings. The Appellate Court has rightly observed that such comparison, in the facts of the present case, could not have been undertaken in the manner adopted by the Trial Court, particularly when no appropriate evidence had been led in



support thereof. The said finding also cannot be faulted.

25. The entire approach adopted by the learned Appellate Court reflects an independent appraisal of the evidence and the statutory requirements governing proceedings under Section 138 of the NI Act. The reasons assigned by the Appellate Court are based upon the pleadings, the documentary evidence and the admitted facts emerging from the record. The appellant has not been able to demonstrate that the conclusions recorded by the Appellate Court are either contrary to law or unsupported by the evidence available on record.

26. In view of the above discussion, this Court is of the considered opinion that the learned Appellate Court has rightly interfered with the judgment of conviction passed by the learned Trial Court. The findings returned in the impugned judgment dated 29.01.2026 are supported by the material available on record and do not suffer from any perversity, illegality or jurisdictional error warranting interference by this Court.

27. Accordingly, the present appeal is dismissed. The judgment dated 29.01.2026 passed by the learned Sessions Judge-02-cum-Special Judge (NDPS), North-West District, Rohini Courts, Delhi, is affirmed.

28. Pending application(s), if any, also stand disposed of.

29. The order be uploaded on the website forthwith.

**MADHU JAIN, J**

**JULY 28, 2026/P**