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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 13th August, 2025+ CRL.REV.P.(NI) 174/2025, CRL.M.A. 23825/2025,
CRL.M.(BAIL) 1731/2025 (for Suspension of Sentence)**RAMESH KUMAR SISODIA**

S/o Sh. Balbir Singh Sisodia

.....Petitioner

Through: Mr. Sandeep Mishra, Advocate.

versus

PARVESH DABAS

S/o Sh. Inderjeet Singh

.....Respondent

Through: None.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. Criminal Revision Petition under Section 438 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) has been filed on behalf of the Petitioner, **Ramesh Kumar Sisodia** (Convict) to challenge the Order dated 22.07.2025 of learned ASJ, Rohini Courts, who has upheld his Conviction dated 20.05.2023 and the Order on Sentence dated 12.12.2023 of the learned Metropolitan Magistrate, Delhi, under Section 138 of the Negotiable Instruments Act, 1881 (*hereinafter referred to as 'N.I. Act'*).

2. **Briefly stated**, the Respondent/Parvesh Dabas (*the Complainant*) had filed a Complaint under Section 138 of N.I. Act wherein it was asserted that he had given a friendly loan of Rs.4,00,000/- in cash on 10.03.2015 to the



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Petitioner/Ramesh Kumar Sisodia (*the Convict/Accused*), on the assurance that the amount shall be returned by the Petitioner, in three months.

3. In order to secure the loan amount, *a post-dated Cheque bearing No.814272 dated 10.06.2016 for Rs.4,00,000/- and also a Promissory Note, were executed by the Petitioner.* The cheque, however, on presentation, was dishonoured for “*Funds Insufficient*” vide Bank Return Memo dated 23.07.2015. Legal Notice dated 13.08.2015 was served, despite which the Petitioner failed to pay the cheque amount. Consequently, the Complaint under Section 138 of N.I. Act was filed by the Respondent.

4. The Petitioner was summoned and thereafter, Notice under Section 251 of Cr.P.C. was framed on 28.01.2017, to which he pleaded ‘*not guilty*’ and claimed trial. The Petitioner took the defence that the Cheque in question and the Promissory Note, was taken by the Complainant as security for loan of Rs.4,00,000/-, which were executed in advance, but no loan whatsoever was given to the Petitioner.

5. The Complainant, namely, Mr. Parvesh Dabas (*the Respondent herein*) examined himself as CW-1 and proved the Promissory Note, Ex.CW-1/A; the Cheque, Ex.CW-1/B and the Return Memo of the Bank, Ex.CW-1/C. The Legal Notice and the Postal Receipt were proved as Ex.CW-1/D, Ex.CW-1/E and Ex.CW-1/F, respectively.

6. The statement of the Petitioner was recorded under **Section 313 Cr.P.C.** wherein he denied taking the loan of Rs.4,00,000/-. He claimed that the Cheque had been given by him as a security in advance, but no loan was disbursed to him. The Petitioner has signed a blank Promissory Note. He also claimed that the Legal Notice had not been sent to his correct address, which is Third Floor, House No. 144, Village Rajapur, Sector-9, Rohini,



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Delhi.

7. The Petitioner was convicted under Section 138 of N.I. Act *vide* Judgment dated 20.05.2023 and was sentenced to Simple Imprisonment for four months and directed to pay Compensation of Rs.6,00,000/- to the Respondent under Section 357 Cr.P.C. *vide* Order on Sentence dated 12.12.2023.

8. Aggrieved, the Petitioner filed the First Appeal bearing CA No. 30/2024 before the learned ASJ but the Appeal was dismissed *vide* Order dated 22.07.2025.

9. The Petitioner was taken into custody by the Appellate Court on 22.07.2025, since then he is in the Tihar Jail.

10. *Aggrieved by the Order of the learned ASJ, the present Petition has been filed to challenge the impugned Judgment.*

11. The **main grounds of challenge** are that the learned Trial Court failed to appreciate various admissions made by the Complainant in his cross-examination viz. that he did not know the house number of the Petitioner's House though he had seen it. He also admitted that he did not know who filled the Promissory Note, Ex.CW-1/A. He further admitted that there is no date mentioned of service of the Legal Notice in the Complaint, which is fatal to the case of the Complainant. However, these material admissions made by the Complainant in his cross-examination, have been ignored.

12. It is further submitted that the Complainant did not prove the Bank Return Memo dated 23.07.2015 even though he had admitted in his cross-examination that there was no stamp or signature of Bank Official on the Memo. Without the stamp and signatures, Return Memo cannot be read in evidence. No other evidence was led to prove the Bank Return Memo.



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13. The Complainant has not been able to prove the source of loan. The Apex Court in the case in K. Prakashan vs. P.K. Surenderan, 2008(1) SCC 258 which has been followed by this Court in Kulwinder Singh vs. Kafeel Ahmad, CR.LP 478/2011, held the acquittal under Section 138 of N.I. Act, to be proper.

14. The alleged Loan transaction is in cash, is contrary to Section 269 SC of Income Tax Act which provides that any transaction of loan or any kind of deposit in the amount of Rs.20,000/- and above, shall be made through account payee cheque or demand draft. Such transaction cannot be considered valid as has been held in the case of Krishna Janardhan Bhat vs. Dattatraya G. Hegde, Criminal Appeal No. 518/2006 and Narender Kumar vs. Parmanand in CC No. 519406/2016.

15. In the case of Nutan Kumar vs. IInd Additional District Judge, Banda, AIR 1994 298, it was held that the amount in question can be termed as unaccounted money.

16. In the circumstances, it cannot be said that the amount to be recovered is legally recoverable. Hence, the cheque issued cannot be said to be issued in the discharge of legally recoverable debt or liability, as mandated under Section 139 of N.I. Act.

17. Further, in the case of Vipul Kumar Gupta vs. Vipin Gupta, 2012 (V) AD (CRI) 189, the Co-ordinate Bench of this Court, held that in a Complaint under Section 138 of N.I. Act, the non-reflection of the loan amount in the ITR, can be considered as one of the grounds for acquittal.

18. It is further submitted that the approved standard required to seek discharge by the Accused under Section 139 of N.I. Act, is pre-ponderance of probability and not beyond reasonable doubt.



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19. Hence, the prayer is made that the impugned Judgment be set-aside.

Submissions heard and the record perused.

20. The Petitioner (the *Convict/Accused*) has admitted that he had issued the Cheque dated 10.06.2015, drawn on the Dena Bank, Sector-9, Rohini, Delhi and has also admitted that the Promissory Note had his signatures.

21. The *First defence* which has been set-up by the Petitioner, is that though *he had sought loan of Rs.4,00,000/-* from the Respondent (*Complainant*) for which he had given a security cheque of Rs.4,00,000/- and also signed Promissory Note, but in fact, *the amount never got disbursed to him*. The Complainant despite assurance, had failed to disburse the loan of Rs.4,00,000/-. However, this defence has not been proved by any cogent evidence. There is no averment by the Petitioner that he ever sought the return of the documents i.e. the post-dated Cheque or the Promissory Note, when the loan was not disbursed to him. This defence has crept up for the first time by way of suggestions to the Complainant in his cross-examination. It is clearly an after-thought and cannot be considered as a valid defence.

22. The *Second defence* taken by the Petitioner is that *the Promissory Note though bears his signatures, but the contents were not filled by him*. The Complainant also stated in his cross-examination that he does not remember, who had filled the contents. Even if the details in the Promissory Note were filled in subsequently, the Petitioner admits his signatures on it and does not deny that it was executed along with the Cheque. Pertinently, it was only a support document executed along with the post-dated Cheque. There is no denial of issuance of the post-dated Cheque and therefore, even though the contents of the Promissory Note were blank when he signed the



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said document, it would not enure to his benefit as it is also supported by the post-dated Cheque. The details in the Promissory Note not being filled at the time when he signed it, can neither be of any consequence nor is it enough to disprove the case of the Complainant.

23. The *Third defence* taken by the Petitioner is that under *Section 269 SS of the Income Tax Act, it is mandated that the transactions of more than Rs.20,000/- must be undertaken through a Cheque or a draft*. Since this amount is allegedly given in cash, the same cannot be said to have been proved to be disbursed. This is more so as the Complainant/CW-1 has failed to explain the source from where he took out Rs.4,00,000/-.

24. CW-1 had explained that this amount was the agricultural income received in cash by his father and brother from agricultural produce from ancestral Land. It was not his independent income but was given to him by his father. Therefore, the same is not reflected in his Income Tax Return (ITR), being the income from agriculture for the entire family. Moreover, agricultural income is exempted from Income-Tax.

25. The learned Trial Court, therefore, rightly observed that the cash transaction had been sufficiently explained by the Complainant and his testimony in regard to giving a loan of Rs.4,00,000/-, cannot be disbelieved.

26. In this regard, in the case of Prakash Madhukarrao vs. Dattatrya Sheshrao Desai, 2023:BHC-NAG 12352; Sheela Sharma vs. Mahendra Pal, (2016) ACD 1022 (Delhi High Court) and K.T.S. Sharma vs. Subramanian, 2001(4) CTC 486, it has been held that even though the amount may not have been disclosed in the ITR, that would only entail a penalty under the Income Tax Act but *cannot be considered sufficient to disprove the money transaction*.



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27. Likewise, in the case of Raj Kumar Rajinder Singh vs. State of Himachal Pradesh, (1990) 4 SCC 320 it was observed that the contravention of Section 269SS of the Income Tax Act will give rise to a penalty which is a separate proceeding under the Income Tax Act, but would not invalidate the transaction.

28. Similarly, in the case of Shri Shyam Sunder vs. Sohan Singh, 2018 SCC OnLine Del 7455 Co-ordinate bench of this Court has held Sections 269SS and 269T of the Income Tax Act do make it compulsory for persons who accept loan or deposits of about Rs. 20,000/- to accept them only through proper banking channels. However, the consequence of not doing so, could fasten the parties with penalties under the Income Tax Act, 1961 which would be pursued by Income Tax Authorities separately.

29. In the present case, as already noted, the Petitioner has provided no explanation for the issuance of the Cheque and the signing of the Promissory Note. *A mere bald denial of not having received the loan amount, offers little assistance to his case.*

30. The ***Fourth defence*** of the Petitioner is that ***the Return Memo of the Bank does not bear the signatures or the stamp of the Bank and therefore, cannot be read in evidence.*** However, it cannot be overlooked that the Bank Return Memo is the computer-generated copy and would naturally not have the signatures or the stamp.

31. Pertinently, not only has this Return Memo been proved by the Complainant in his testimony as Ex.CW-1/C, but the document has been admitted on behalf of the Petitioner under Section 294 Cr.P.C. It is contended that while the Petitioner had admitted the Return Memo, but its contents were denied. It is not comprehensible as to what is admitted in the



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Return Memo, if not its contents. Moreover, despite having admitted the Return Memo, no evidence whatsoever has been led by the Petitioner, to prove that the Cheque has not been dishonoured on the ground of insufficiency of funds. It is, therefore, held that this defence, is also of little assistance to the Petitioner.

32. In the end, the Fifth and *final defence* of the Petitioner is that *the Legal Notice is defective as it does not mention the correct address of the Petitioner*. It is not denied by the Petitioner that he is residing at House No. 52, Village Rajapur, Sector-9, Rohini, Delhi-110085. Moreover, in the Promissory Note, Ex.CW-1/A, the address of the Petitioner is given as Village Rajapur, Sector-9, Rohini, Delhi-110085. The incorrectness in the address is claimed to be on account of non-mentioning of the third floor on which the Petitioner is residing. This aspect has been duly considered by the learned Trial Court. The address of the residence of the Petitioner, is correct and merely because the floor was not indicated, cannot be any reason to disbelieve that the Legal Notice was not served upon him.

33. Furthermore, the Petitioner in his Statement under Section 313 Cr.P.C had stated that he was residing at House No. 144, Village Rajapur, Sector-9, Rohini, Delhi-110085. The photocopy of the Electricity Bill in his name is exhibited as Ex.DW-1/A dated 15.03.2023 and the copy of the Certificate dated 20.03.2015 of one vehicle registered in his name, also shows the same address.

34. Further, the Petitioner had examined himself as DW-1 wherein his cross-examination, he was asked about Balaji Hardware and House No. 52, Village Rajapur. The Report on the summon to which the Petitioner was served, reflected the address of the Petitioner as Balaji Hardware, House No.



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52, Village Rajapur, Sector-9, Rohini, Delhi. The summons were received by Balbir Singh and one Ms. Kavita. Balbir Singh is the father of the Petitioner, and Ms. Kavita, who also received the summons, is the Petitioner's mother. Therefore, the service of Summons is proved to have been duly effected.

35. The Legal Notice dated 13.08.2015 had been sent to Balaji Hardware, 52, Village Rajapur, Sector-9, Rohini, New Delhi, which was confirmed by the Complainant in his cross-examination. The Petitioner had not disputed this fact that he was residing on the third floor of the property in question and not on the first floor; therefore, *the learned ASJ had rightly concluded that there was no confusion about the correct address of the Petitioner.*

36. Furthermore, the Summons of the Complaint had been served at the same address. It is sufficient corroboration that the Legal Notice had been sent at the address, at which it was received by the Petitioner. This is more so when the Petitioner while denying the fact that he has not been residing at the said address, but has not disputed that he is residing with his father at the same premises on the third floor and not the first floor.

37. *It is, therefore, rightly held by the learned ASJ that the Legal Notice dated 13.08.2015, cannot be termed as defective or invalid in the eyes of law.*

38. The Petitioner has not been able to point out any illegality in the factual conclusions drawn by the learned Trial Court and upheld by the Ld. ASJ.

Conclusion:-

39. In view of the aforesaid discussion, it is held that there is no ground to interfere with the Judgment dated 22.07.2025 of the learned ASJ, upholding



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the Conviction of the Petitioner under Section 138 of N.I. Act or to interfere with the Order on Sentence.

40. The Criminal Revision Petition is hereby dismissed and disposed of accordingly. The pending Application(s), if any, also stands disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

AUGUST 13, 2025/RS