

**In the Court of District & Additional Sessions Judge-I,
(Bihar Sharif) Nalanda
Cri. Revision No. 121/2025
O R D E R**

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Rajesh Kr. Verma S/O Suresh Kr. Verma
R/O-Chaukhandi, P.S.-Bihar, Distt.-Nalanda
.....Revisionist
vs

1.State of Bihar
2.Paramveer Roshan S/O Umashankar Prasad
R/O-Paharpura,P.S.-Bihar,Distt.-Nalanda.....O.Ps.

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Counsel for Revisionist:- Sri Veeren Kumar, Ld. Adv.
Counsel O.P.(State) :- Ld. A.P.P.
Counsel for O.P.No.2 :- Sri Ashish Verma, Ld.Adv.
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Dated:10.03.2026

Order

1. This revision application is directed against the order dated 25.07.25 passed by Sri Sanni Gaurav, Ld. J.M. 1st class, Nalanda at Bihar Sharif whereby Ld. Court was pleased to summon the revisionist to face trial for the offense punishable u/s 138 N.I. Act.

2.The prominent grounds, taken by the revisionist to assail the impugned order, *inter-alia*, are that the order has been passed without proper application of mind and based on surmises and conjectures. The Ld. Court below has ignored the content of legal notice sent by the revisionist to O.P.No.2, as well as spirit of the section 223 B.N.S.S. which was enacted with a pious purpose to save an innocent person from unnecessary harassment. The Ld. Court while passing the impugned order did not take care of the documentary proof showing entire loan amount was paid back to the O.P.No.2 in several installments and O.P.No.2/Complainant played fraud by depositing the cheque which ought to have returned after getting the amount due. The Ld. Court ignored an important legal aspect that payee’s account was in name of a firm Rajesh Silver Enterprises, which itself being a juristic person was not brought separately to have its say. The Ld. Court has completely ignored the role of complainant/O.P.No.2 who himself played fraud upon the revisionist and breached his trust by depositing the cheque in his account. The Ld. Court below has misinterpreted the provision of section 139 N.I.Act while arriving at its conclusion. So, from all aspects of the matter the impugned order deserves to be set aside holding the same *void-ab-initio*.

3. Facts giving rise to the original case are that a complaint case, viz. 1077C/2024 was filed by O.P.No.2 stating therein that revisionist/accused, being proprietor of a firm Alankar Palace and M/S Rajesh Silver Enterprises used to borrow money, time to time,

from the O.P.No.2 to run his business. On his request O.P.No.2 gave Rs.11,00,000 to revisionist which was transferred in his account through RTGS and other means, on different occasions. On repeated demand of his money made by the O.P.No.2/ Complainant a cheque worth Rs. 11,00,000 was given which got dishonored after depositing in the account. Thereafter, O.P.No.2 was forced to file this case after making all essential legal compliance.

4.Contention of revisionist through his Ld. Counsel is that he appeared before the Ld. Court below at pre summoning stage on notice issued u/s 223 BNSS and submitted his reply. He says further that statements of account attached with his reply was sufficient to convince that entire loan amount was already paid back by him but Ld. Court below passed the impugned order in utter ignorance of this crucial aspect of the matter.

5.It is well established that the object of the provision of Revision is to set right a patent defect or an error of jurisdiction or law. The error should be well founded. Revisional jurisdiction could be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. Still, these are not the exhaustive classes but merely indicative. Each case would have to be determined on its own merits. Meaning thereby section 397 Cr.P.C. unequivocally states that the court exercising its revisional jurisdiction shall apprise itself solely of the question of correctness, legality and propriety of the order of sub-ordinate court. In other words, the court exercising the revisional jurisdiction shall limit itself to the findings, stands or order passed by the sub-ordinate court and shall not go beyond analysis and observation made by the sub-ordinate court. It is for the revisionist to set the grounds necessary and sufficient to interfere with the order sought to be revised. Reliance may also be placed on a law laid down by Hon'ble Apex Court in **Malti vs. State of U.P.; 2000 Cr.L.J. 4170**, whereby it was held that, "Revisional Power is discretionary with the court to see that justice is done in accordance with the recognized principles of Criminal Jurisprudence."

6.On careful perusal of the record it is evident that revisionist has admitted to take Rs.11,00,000 from O.P.No.2 as loan. At this stage court is to see only *prima facie* materials and can not go into merits of the case and can not conduct a mini trial. **Section 138 N.I. act criminalizes dishonor of a cheque due to insufficiency of fund in concerned bank account. Provisions of this section is applicable when a cheque is returned unpaid due to insufficient funds or "exceeds arrangement". Section 139 of the same Act creates a mandatory, rebuttable presumption that a cheque was received by**

the holder for discharging a legal debt or liability. Although, accused can disprove this presumption by raising a “probable defense” based on “preponderance of probability”.

7. In the case at hand claim of the revisionist is that he already returned entire money he had taken from the O.P.No.2/Complainant. In support of his claim he has produced bank statements showing such transactions. But, the Ld. Court below has rightly held, vide the impugned order that this is not the appropriate stage to entertain the presumptions or rebuttals as same can be raised in the course of trial. This stage is merely to see whether a prima facie case is made out or not in the given circumstances? Going through the record it transpires that case has been filed after fulfilling all legal requirements, such as issuance of legal notice etc., within stipulated statutory period.

Conclusion

8. In view of the discussions made in the foregoing paragraphs this court finds fit to hold that the impugned order passed by the Ld. Court below does not suffer from any sort of error, illegality or infirmity. Same has been passed after complying with all the legal and statutory norms, so does not warrant interference of this court.

9. As a result instant revision application fails and same stands dismissed outrightly. Impugned order is hereby affirmed.

10. Let copy of this order along with L.C.R. be sent to the court concerned, at the earliest.

Dictated & Corrected by Me

(Sanjeev Kumar Singh)

DASJ-I

Dated: 10.03.26