JHJM030021732021

In the Court of Judicial Magistrate, Ist Class, Jamtara

Present :- Ms. Shalika Anna Herenz
Judicial Magistrate, Ist Class
ID No. JH02065

[Date of Judgment - 17.07.2026]

District : Jamtara

[P.C.R. Case No. 392/2021]

T.R. No. 62 /2026

(P.C.R. Case No. 392/2021 Crime u/s- 138 Negotiable Instruments Act)

Informant	Sanjay Kumar Ray, aged about 51 years, S/o late Radha Kanta Ray, R/o village Post- Charakmara, P.S. Sarath, District-Deoghar
Represented by	Sri Rakesh Ranjan, Learned Advocate
Accused	1. Sanjay Kumar Mandal, S/o late Gourav Chandra Mandal, aged about 56 years Sex- Male, R/o Mouza-Khairbani, P.S. Fatehpur, Dist-Jamtara.
Represented By	Sri Madhusudan Bhaiya, Learned Advocate.

Date(s) of Offence	23.02.2016 to 05.10.2021
Date of F.I.R/complaint	26.10.2021
Dates of final form	N.A.

Date(s) Framing Charges/ Explanation of **Substance** of accusation	20.05.2024
Date of Commencement of evidence	05.07.2024
Date when Judgment was reserved	17.07.2026
Date of the Judgment	17.07.2026
Date of Sentencing Order, if any	Nil

Accused Details:

Rank of the Accused	Name of the Accused	Date of Arrest	Date(s) of Released on Bail	Offences charged with	Whether Acquitted or Convicted	Sentence imposed	Period of Detention undergone during Trial for purpose of Section 428, Cr.P.C.
A1	Sanjay Kumar Mandal	N/A	21.02.24	U/s 138 of The Negotiable Instruments Act	Acquitted	Nil	N/A

List of Prosecution/Defence/Court Witnesses

A. Prosecution

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, other Witness)
CW1	Sanjay Kumar Ray	Complainant
CW2	Shiv Shankar Singh	Other witness
CW3	Rai Anand Bats	Other witness

B. Defence Witness, if any :

Nil

C. Court Witness, if any :

Nil

List of Proscution /Defence/Court Exhibits

Prosecution

Sr. No.	Exhibit Number	Description
1	Exhibit- P-1/C.W- 1	Cheque No.982201 dt. 24.09.2021
2	Exhibit- P-2/C.W- 1	Bank return Memo of Axix Bank, Jamtara
3	Mark-X	Legal notice
4	Exhibit- P-3/C.W- 1	Tracking report
5	Exhibit-P-4/C.W.3	Legal notice of 04.10.2021

B. Defence:

Sr. No.	Exhibit Number	Description
1.	N/A	N/A

C. Court Exhibits:

Nil

D. Material Objects:

Nil

-J U D G M E N T-

1. One accused person namely, **1. Sanjay Kumar Mandal,** is facing trial for having committed, *as alleged*, an offence punishable U/S -138 of The Negotiable Instruments Act.

FACTS

2. The brief facts of this case as per the complaint petition is that the above name complainant namely Sanjay Kumar Ray is an authorized person of M/s Jamtara Tractors (dealing with sale of tractors). On 23.02.2016 the accused Sanjay Kumar Mandal purchased a tractor having its model Mahindra Tractor 275 DI, trailer and attachment having Chassis No. RYNB01408, Engine N0. RYNB01408, from above Jamtara Motors at Jamtara Showroom having its price of total consideration amount was Rs. 694214, in which Rs. 4,40,000/- paid through loan by finance and he paid Rs. 62,672/- in different dates, lastly he had to pay his rest margin money hence he issued a post dated cheque of

Rs. 191542/- of State Bank of India Fatehpur Branch, having account N0. 31445863608, and Cheque N0. 982701 dated 24.01.2021 of Rs. 191542/- against the net dues amount. Taking the complainant on good faith that there is sufficient amount in the account of accused and the dues amount Rs. 1,91,542/- shall be realised from the cheque. The complainant presented the above mentioned cheque for realization of dues amount Rs.191542/- to his account N0. 919030013537690 of Axix Bank, Jamtara branch but the cheque was returned unpaid due to “insufficient of fund” in the account of the accused and this fact was informed to the complainant on 27.09.2021 by cheque memo returned of Axix Bank Jamtara branch in the name of Branch Manager Axis Bank(Photo copy of t he cheque along with cheque memo returned are here by attached with this complaint petition. On 04.10.2021 the complainant sent his pleader notice through his advocate by Registered post No. RJ264135045IN regarding the cheque was returned by his banker due to fund insufficient. The pleader notic. Hence this present case.

3. On 20.05.2024 Substance for the offence punishable U/S 138 of The Negotiable Instruments Act was explained to the above named accused person in Hindi to which he denied and claimed trial.

4. Accused person in his statements which was recorded u/s 313 of Cr.P.C on 13.10.2025 has denied the allegations leveled against him and has stated himself to be innocent before the court.

5. Now it is incumbent upon this court to ascertain as to whether the informant has been able to prove the charges leveled against the accused persons beyond the shadow of all reasonable doubts or not.

FINDINGS

6. During the course of trial complainant has adduced altogether three witnesses to prove their case namely **CW 1 Sanjay Kumar Ray (Complainant), CW 2 Shiv Sankar Singh and CW 3 Ray Anand Vats.**

7. **CW 1 (Sanjay Kumar Ray)** complainant examined himself. He deposed that he is complainant of this case and the owner of the Mahindra Tractor Showroom located at Combined Building Road, Jamtara. The accused Sanjay Kumar Mandal, came to his showroom on 23.02.2016 and expressed his desire to purchase a Mahindra Tractor 275 DI

on installment. Upon the accused request, he agreed to supply the tractor. The price of the above Mahindra Tractor was fixed at Rs. 6,94,214/- of which 4,40,000/- was paid through a finance company. It was agreed that the remaining Rs. 2,54,214/- wold be paid to the accused personally. The accused paid 62,672 on the same day and gave him cheque N0. 982701 dated 24.09.2021 for the amount of Rs. 1,91,542/- for the remaining Rs. 1,91,542/-. He deposited the above cheque in his account at Axix Bank, Jamtara but the bank bounced the cheque due to insufficient funds in the account. He informed the accused about the cheque bouncing, but he did not provide a satisfactory response. That he through his lawyer, issued a legal notice to the accused for the refund of Rs. 1,91,542/- which was sent by registered post on 04.10.2021, but he did not respond. The accused embezzled Rs. 1,91,542/- by making a false promise to pay the amount through a cheque. The original cheque N0. 982701, dt. 24.09.2021, for the amount of Rs. 1,91,542/- is the cheque that the accused gave him, and that the accused signed it in his presence, which he recognize. Which is marked as **Exhibit-P-1/C.W-1**. He has filed the original copy of the slip given to him by the Jamtata branch of Axix Bank, which states that the reason for non-payment of the cheque is insufficient funds, and this is the slip that he recognize which is marked as **Exhibit-P-2/C.W.1.** He has filed a photocopy of the legal notice sent to the accused in court, which was written by Advocate as per his statement, each page of which bears Advocate's signature. This is the legal notice signed by Advocate in his presence, which he recognize is marked as Mark-X. He has downloaded and filed this tracking report of the legal notice sent by registered post from the Indian Postal Department's website, which reports that the above notice was received by the accused on 05.10.2021. he recognize it as **Exhibits-P-3/C.W.1**.

During cross-examination by the defense counsel, he deposed that the cheque was given to him on 24.09.2021. His showroom is located in the combined building in Jamtara. Sanjay Kumar Mandal has filed a false case against him after he filed a case. The vehicle was sold. The bumper, engine, hood and rear hitch were taken as accessories, along with the registration and insurance charges. He had both the vehicle registered and insured. He received no response from the lawyer after sending a notice. It is not true that the cheque that bounced was for the outstanding amount of the vehicle. It is not true that he misused the cheque and deliberately caused it to bounce.

8. **CW 2 (Shiv Sankar Singh)** he stated that he knows both parties to this case, and the facts related to the case. The complainant Sanjay Kuamr Ray is the owner of Mahin dra Tractor Showroom located at Combined Building Road, Jamtara, and his showroom is

in the name of M/s Jamtara Tractor. Sanjay Kuamr Mandal expressed his desire to buy Mahindra Tractor 275 DI on installment at the complainant's showroom on 23.02.2016. on his request, the complainant agreed to give the tractor. The price of the above Mahindra Tractor was fixed at Rs. 6,94,214/- of which 4,40,000/- was to be paid through the finance company and the remaining Rs. 2,54,214/- was to be paid to the accused personally. The accused paid Rs. 62,672/- on the same day and issued cheque No. 982701, dt. 24.09.2021, for the amount of Rs. 1,91,542/- to the complainant for the remaining. The complainant deposited the above cheque in his account at Axis Bank, Jamtara, but the bank bounced the cheque due to insufficient funds in the account. The complainant informed the accused of the cheque bounce, but he did not provide a satisfactory response. The complainant through his lawyer, issued a legal notice to the accused for the return of Rs. 1,91,542/- which was sent by registered post on 04.10.2021, but he did not respond. In this way, the accused embezzled Rs. 1,91,542/- by making a false promise to pay it through cheque. He has filed the original copy of the legal notice sent to the accused in the court, which was filed after him by Advocate as per his statement, each page of which bears the signature of Advocate. This is the legal notice on which Advocate has signed. Rai Anand Vats has signed before him, whom he recognize.

During cross-examination by the defense counsel, he deposed that he is working in Sanjay Kumar Ray's firm. Sanjay Mandal came to his firm to purchase a tractor. Sanjay Kumar Mandal had taken a loan of Rs. 4,40,000/- from Mahindra Finance Company to purchase the tractor. Sanjay Kumar had to to pay the remaining Rs. 2,54,000/- himself. Sanjay Kuamr Mandal later paid Rs. 10,000/- on 27.10.2016, Rs. 12,000/- on 02.08.2016, Rs. 14,000/- on 06.12.2017, Rs. 4,000/- on 10.02.2018 and Rs. 14,000/- on 09.08.2018. Sanjay Kuamr Mandal, gave a cheque on the same day the tractor was purchased. On the said date, the said cheque had no amount written on it. The showroom owner later marked the amount on the cheque. Sanjay Kuamr Mandal has also filed a case against the showroom owner, Sanjay Kuamr Ray. It is not true that the cheque was bounced by overstating the amount on the cheque, nor that he as a subordinate employee, gave false testimony.

9. **CW 3 (Rai Anand Vats)** he stated that he is an advocate by profession and the complainant in this case, Sanjay Kuamr Ray, is his client. The complainant through him, issued a legal notice to the accused for the refund of Rs. 1,91,542/-, which was sent by registered post on 04.10.2021, but he did not respond. The original legal notice he sent to the accused is filed in the court, with his signature on each page as an advocate. This is

the legal notice prepared by him, which he recognize. Which is marked as **Exhibit-P-4/C.W.3.** This the tracking report of the legal notice sent to him. The accused received it. On 05.10.2021, which he recognize. Which is already marked as **Exhibit- P-2/C.W.1.** All the above mentioned facts are correct and true to his knowledge. The above written facts are correct and true to his knowledge, and having found them to be correct, he has signed him, on 18.12.2024, by appearing in the Civil Court, Jamtara. he deposed that the legal notice described in paragraph-3 of the statement of complainant No.3 Rai Anand Vats, dated 04.10.2021, was sent to the accused as directed by the plaintiff. It consists of two pages. He sign each page and recognize it. The entire legal notice is marked as **Exhibit P-4/C.W-3.**

In his cross-examination he deposed that he has no personal knowledge of this case. He only know what his client provided.

10. Later on when the matter was fixed for judgment a compromise petition was filed on behalf of both the parties and the judgment was deferred. Later, on the basis of compromise petition wherein the parties had agreed to settle the case on payment of Rs. 1,10,000 to be made by the accused to the complainant, the payment was made. The complainant was present and submitted before the court that he does not want to further contest the case.

11. Counsel on behalf of defense argued that on the basis of compromise order may be passed.

12. Counsel on behalf of complainant submitted that the complainant has received the agreed amount hence appropriate order may be passed.

<u>APPRECIATION OF EVIDENCE</u>

13. Before evaluating the evidence on record, it is pertinent to mention the settled principles governing Section 138 of the Negotiable Instruments Act, 1881. To establish an offence under Section 138 of the N.I. Act, the complainant must prove beyond reasonable doubt that the cheque in question was issued towards a legally enforceable debt or liability. While statutory presumptions under Sections 118 (a) and 139 of the N.I. Act lie in favour of the complainant, such presumptions are rebuttable in nature. The standard of proof to rebut these presumptions on the part of the accused is that of preponderance of

probabilities. Furthermore, the offense under Section 138 of the N.I. Act is primarily compoundable in nature under Section 147 of the Act.

14. In the present case, a critical material development occurred after the matter was posted for judgment. A joint compromise petition was submitted before this Court by both parties. Under the terms of the compromise, the parties mutually agreed to settle the underlying dispute upon payment of a sum of Rs. 1,10,000/- by the accused to the complainant. The complainant physically appeared before this Court and explicitly submitted that the agreed settlement amount of Rs. 1,10,000/- has been duly paid by the accused and received by him. The complainant unequivocally expressed that he does not wish to further contest or pursue the prosecution in the present case against the accused. Moreover, during cross-examination of CW-2 (Shiv Sankar Singh), an employee of the complainant's showroom, it emerged that the accused had made multiple interim payments over time (Rs. 10,000/- on 27.10.2016, Rs. 12,000/- on 02.08.2016, Rs. 14,000/- on 06.12.2017, Rs. 4,000/- on 10.02.2018, and Rs. 14,000/- on 09.08.2018) towards the tractor purchase, establishing that the total actual outstanding amount was a matter of dispute. The subsequent compromise executed between the parties and full payment/satisfaction of the compromised sum of Rs. 1,10,000/- confirms that the legal liability arising out of the transaction stands fully settled, satisfied, and extinguished between the parties.

15. In light of the settlement arrived at between the parties, the full realization of the compromised amount, and the express statement of the complainant expressing his unwillingness to prosecute the matter further, the essential ingredient of an existing "legally enforceable debt or liability" as on date ceases to subsist for the purpose of conviction under Section 138 of the N.I. Act. In terms of Section 147 of the Negotiable Instruments Act read with Section 320 of the Cr.P.C., compounding of an offence under the N.I. Act has the effect of an acquittal of the accused. Consequently, this Court arrives at the conclusion that no criminal liability survives against the accused, and the charge framed under Section 138 of the Negotiable Instruments Act fails to stand.

ORDER

16. Accordingly accused person namely **1. Sanjay Kumar Mandal (A1)** is hereby acquitted from the charge leveled **U/S 138 Negotiable Instrument Act 1881**. All the

petitions filed earlier by either parties (if any) is also hereby disposed off as dismissed. Accused persons is already on bail, hence his bailors are discharged from their liabilities of bail bonds.

O/C is directed to deposit the case record to record room after all due formalities and compliance.

(The judgment is pronounced in the open Court.)

Dictated and corrected by me	**Dictated**
Sd/-	Sd/-
(Ms. Shalika Anna Herenz) **Judicial Magistrate Ist Class** **Jamtara.** **17.07.2026**	**(Ms. Shalika Anna Herenz)** **Judicial Magistrate, Ist Class** **Jamtara.** **17.07.2026**