

**IN THE COURT OF SHRI PUNEET PAHWA,
ADDITIONAL SESSIONS JUDGE/SPECIAL JUDGE (NDPS)
NORTH EAST DISTRICT, KARKARDOOMA COURTS,
DELHI**

**CRIMINAL APPEAL NO. 108/2025
CNR No. DL NE 01-001929-2025**

**RAGHURAJ SINGH
S/o Sh. Nawab Singh
R/o Village & Post Shikarpur,
Near Khurja Bus Stand, Shikarpur,
Distt. Bulandshehar, U.P.**

..... Appellant/Convict

Versus

**RAM KUMAR CHAUHAN
S/o Late Mahipal Singh
R/o H. No. C-5/3,
Matawali Gali, Dayalpur,
Delhi-110094**

..... Respondent/Complainant

Date of Institution of Appeal	: 09.07.2025
Date of Completion of Arguments	: 02.05.2026
Date of Judgment	: 12.05.2026

JUDGMENT

1. This appeal is directed against the impugned judgment dated 10.06.2025 and the order on sentence dated 13.06.2025 passed by the court of Sh. Anmol Nohria, Ld. JMFC-02, North-East, Karkardooma Courts, Delhi in a case bearing CT Cases No. 485/2018 filed against the appellant/

convict under section 138 of Negotiable Instruments Act (herein after referred to as the NI Act), vide which, the accused (appellant herein) was convicted under section 138 of NI Act and sentenced to simple imprisonment for a period of three months and directed to pay fine of Rs.3,32,394/- with interest @ 9% per annum from the date of dishonour of cheque to the complainant, as compensation within 30 days from the date of impugned order on sentence i.e. 13.06.2025 and in default of the payment of compensation, the convict shall undergo further simple imprisonment of one month.

2. Feeling aggrieved with the impugned judgment and order on sentence, the appellant/convict has filed the present appeal. Notice of the appeal was issued to the respondent/complainant.
3. The record of the Trial Court is also requisitioned.
4. Brief facts of the case, as stated by the complainant in his complaint are that complainant and accused (appellant herein) were friends since long and having close relationship. Accused (appellant herein) had requested the complainant to advance friendly loan of Rs.2,00,000/- for a period of one month. Thereafter, in the month of October, 2017, complainant paid the same to the accused. Accused (appellant herein) had assured the complainant that he would return the said amount on or before November, 2017.

After one month, when the complainant approached the accused, he in order to discharge his legal liability towards the complainant issued cheque amounting to Rs.2,00,000/- to the complainant. However, upon presentation, the same was returned unpaid by the complainant's banker with remarks "fund insufficient". Thereafter, complainant got issued a legal notice dated 09.02.2018, which was duly served upon the appellant/accused, but, no payment was made by the accused. Finding no option, the complainant had filed a complaint u/s. 138 NI Act against the accused seeking legal remedy for dishonour of cheque and recovery of the due amount.

5. The accused had taken plea that he had taken loan of Rs.20,000/- only from the complainant and issued cheque in question as blank security cheque, thereafter he asked the complainant to take the amount and return his cheque, which complainant refused to do and thereafter, he suffered paralytic attack and was bed ridden for two years and has no legal liability towards the complainant. In his statement under Section 294 Cr.P.C at the time of framing of notice u/s. 251 Cr.P.C. and also in his statement u/s. 313 Cr.P.C., the accused had admitted his signatures on the cheque in question, but, he denied receiving legal demand notice.
6. As observed by the Ld. Trial Court, the accused failed to rebut the presumption of liability and all the

ingredients of offence u/s. 138 of NI Act were proved qua the accused. Accordingly, accused was convicted of offence u/s 138 N.I. Act, vide impugned judgment dated 10.06.2025 and thereafter, accused (appellant herein) was sentenced, vide order on sentence dated 13.06.2025.

7. Feeling aggrieved with the impugned judgment and order on sentence, the convict (appellant herein) filed the present appeal.
8. The notice of the appeal was issued to the respondent and on completion of service of notice, the respondent had appeared with Ld. Counsel.
9. I have heard the Ld. Counsel for the appellant, Ld. Counsel for the respondent and perused the record of the Ld. Trial Court.
10. Ld. Counsel for the appellant/convict submitted that the Ld. Trial Court has committed grave error while passing the impugned judgment dated 10.06.2025 and order on sentence dated 13.06.2025, as the respondent/complainant had failed to prove on record that the complainant has ever filed the ITR mentioning the factum of advancing loan of Rs.2 Lakh to the appellant in his ITR, as stated by the complainant during his cross examination. The complainant despite asking for its production, has failed to bring on record the ITR with respect to advancement of the alleged loan to the appellant and the Ld. Trial Court did not give

much weightage to this fact to assess the financial capacity of the complainant.

11. Ld. Counsel has also submitted that the Ld. Trial Court did not consider the fact that the complainant had failed to mention the mode, manner, time, and place of payment of alleged loan of Rs.2 Lakhs, which fact was also admitted by him during his cross examination. The Ld. Trial Court also failed to consider the fact that the complainant could only tell the date of handing over of the cheque as 05.11.2017, as this date is mentioned on the cheque itself and was filled by the complainant himself, therefore, except this date, the complainant had failed to tell any specific date of demand, advancement of loan etc.
12. Ld. Counsel has further submitted that the Ld. Trial Court fell into grave error while not considering the fact that the complainant himself had made contradictory statements during his cross examination that on one hand, he stated that all the details on the cheque were pre filled by the accused himself before handing over the same, and on the other hand, he stated that the details on the cheque were filled by son of the accused, however, he had signed in his presence, thus, both the statements of the complainant are contradictory to each other and pertinently it is so because the complainant himself had filled the details on the cheque in question as per his own convenience.

13. Ld. Counsel has further submitted that the Ld. Trial Court also failed to consider the fact that there is fault on the part of the complainant and that the transaction of more than Rs.20,000/- is illegal under IT Act without getting a license and the notice of demand U/s 138 N.I. Act was never served upon the appellant and the service of the same cannot be deemed as proper in any manner. Ld. Counsel has also submitted that the Ld. Trial Court failed to consider the fact that the complainant has misused the cheque in question and has filed a false and frivolous case against the appellant in order to extort money by misusing and abusing the process of law.
14. Ld. Counsel for the appellant/convict further submitted that the impugned judgment and order on sentence have been passed by the Ld. Trial Court in mechanical manner without application of judicial mind and ignoring material evidence placed on record by the appellant. He also submitted that the impugned order on sentence is illegal and against the provisions and principles of natural justice, hence, the impugned judgment and order are liable to be set-aside and prayed that the impugned judgment as well as the order on sentence may kindly be set aside, in the interest of justice. Ld. Counsel has also relied upon the judgments, **N. Vijay Kumar v. Vishwanath Rao N., 2025 (4) CLJ 659 (SC)** and **Sri Dattatraya v.**

Sharanappa, Criminal Appeal No. 3257/2024 [2024 INSC 586].

15. On the other hand, Ld. Counsel for the respondent /complainant has submitted that the appellant herein has concealed the true, material and relevant facts and have not come with clean hands. The appellant is guilty of concealment, misstatement and misrepresentation of true and correct facts. Ld. Counsel has also submitted that the Ld. Trial Court has duly considered all the facts and evidences and thereafter, given the impugned judgment with proper observation.
16. Ld. Counsel for the respondent/complainant further submitted that all the ingredients of offence u/s. 138 of NI Act have been proved in respect of the accused/appellant herein and the accused/appellant herein could not rebut the statutory presumptions arising against him and submitted that the Ld. Trial Court passed the impugned judgment and order on sentence, after considering all the facts and circumstances in a very judicious manner. He has also submitted that the appeal filed by the appellant/convict is false, frivolous and baseless and prayed for dismissing the present appeal filed by the appellant/convict.
17. I have gone through the impugned judgment, order on sentence, the Trial Court record and also heard the arguments advanced by both the parties.

18. Now, the relevant provision of law to settle the entire dispute/controversy between the parties herein is Sec. 138 of NI Act and the same is being reproduced hereinafter for the ready reference:-

"138. Dishonour of cheque for insufficiency, etc., of funds in the account.- Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for a term which may be extended to two years, or with fine which may extend to twice the amount of the cheque, or with both: Provided that nothing contained in this section shall apply unless-

(a) the cheque has been presented to the bank within a period of three months from the date on which it is drawn or within the period of its validity, whichever is earlier:

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice; in writing, to the drawer of the cheque, within thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation For the purposes of this section, "debt of other liability" means a legally enforceable debt or other liability.

19. The essential ingredients in order to attract Sec. 138 of NI Act, 1881 are as following:

i) The cheque for an amount is issued by the drawer to the

payee/complainant on a bank account being maintained by him.

ii) The said cheque is issued for the discharge, in whole or in part of any debt or liability.

iii) The cheque is returned by the bank unpaid on account of insufficient amount to honour the cheque or it exceeds the amount arranged to be paid from that account by an agreement made with the bank.

iv) The cheque is presented within 3 months from the date on which it is drawn or within the period of its validity.

v) Within 30 days a legal demand notice is issued by the payee or the holder in due course to the drawer of the cheque on receipt of information by him from the bank regarding the dishonour of the cheque.

vi) The drawer of the said cheque fails to make payment of the said amount of the money as demanded in the legal demand notice to the payee or the holder in due course within 15 days of the receipt of said notice.

vii) The debt or other liability against which the cheque was issued is legally enforceable.

20. Now, coming to the facts of the present complaint case keeping in view the essential ingredients of section 138 of NI Act.

21. In this case, it is not disputed and duly admitted by the accused that the cheque in question bears his signature and drawn by him. Therefore, the essential ingredient (i) as discussed in the preceding paragraph stands fulfilled. Accused has further not disputed the fact of dishonour of the cheque in question, hence, other essential ingredients (iii) and (iv) also stand proved by the complainant. So far as the ingredient no. (v) & (vi) are concerned, the appellant/accused has not admitted receipt of legal demand notice.

22. It is now well settled that once the notice is sent on the correct address of the appellant/accused, by a registered post, then notice is deemed to be served.
23. The notice was sent at the correct address of the appellant/convict and as per the tracking report, which is Ex.CW1/5 (colly.), the item delivery has been confirmed. Meaning thereby, notice was duly served upon the addressee. It is worth noticing that the address at which the notice was sent is the same address, where, the summons of the complaint case were served upon the appellant/convict and the same address was mentioned in the bail bonds furnished by the appellant/convict. The appellant/convict has mentioned the same address in the present appeal also.
24. The Hon'ble Supreme Court in **C. C. Alavi Haji v. Palapetty Muhammed & Anr., (2007) 7 SCC 555** refers to Sec. 114 of the Evidence Act and Section 27 of the G C Act, and observed as under:

“Section 27 gives rise to a presumption that service of notice has been effected when it is sent to the correct address by registered post. In view of the said presumption, when stating that a notice has been sent by registered post to the address of the drawer, it is unnecessary to further aver in the complaint that in spite of the return of the notice unserved, it is deemed to have been served or that the addressee is deemed to have knowledge of the notice. Unless and until the contrary is proved by the addressee, service of notice is deemed to have been effected at the time at which the letter would

have been delivered in the ordinary course of business. This Court has already held that when a notice is sent by registered post and is returned with a postal endorsement "refused" or "not available in the house" or "house locked" or "shop closed" or "addressee not in station", due service has to be presumed. (Vide Jagdish Singh v. Natthu Singh [(1992) 1 SCC647: AIR 1992 SC 1604]; State of M.P. v. Hiralal [(1996) 7 SCC 523] and V. Raja Kumari v. P. Subbarama Naidu [(2004) 8SCC 774: 2005 SCC (Cri) 393].) It is, therefore, manifest that in view of the presumption available under Section 27 of the Act, it is not necessary to aver in the complaint under Section 138 of the Act that service of notice was evaded by the accused or that the accused had a role to play in the return of the notice unserved.”

25. Thus, this court concurs with the conclusion arrived at by the Ld. Trial Court that the notice was duly served upon the appellant/accused. Admittedly, no payment was made by the appellant/accused to the complainant within 15 days of the receipt of legal demand notice. Thus, ingredient no. (v) & (vi) mentioned above also stood duly proved before the Ld. Trial Court.

26. Now coming to the last and the remaining core ingredients of Sec. 138 of NI Act, i.e. ingredient no. (ii) and (vii) as discussed in the preceding paragraphs and the real issue of controversy herein ie. whether the cheque in question was issued in discharge of any debt or liability, whole or in part and whether the same is a

legally enforceable debt or not.

27. It is pertinent to mention here that the holder of the cheque has the presumption of law in his favour as per Section 118 of the NI Act and Section 139 of the NI Act. According to Section 139 of Negotiable Instruments Act, unless the contrary is proved, it is to be presumed that the holder of a cheque received the cheque of the nature referred to in Section 138 for the discharge, in whole or in part, of any debt or other liability. In the case in hand, since the appellant/convict has admitted his signature on the cheque in question, presumption of section 118 and 139 of NI Act arise in favour of the complainant which are being reproduced hereinafter for ready reference:-

"Section.118 Presumptions as to negotiable instruments. - Until the contrary is proved, the following presumptions shall be made:-

- (a) of consideration - that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration;
- (b) as to date - that every negotiable instrument bearing a date was made or drawn on such date;
- (c) as to time of acceptance - that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity;
- (d) as to time of transfer - that every transfer of a negotiable instrument was made before its maturity;
- (e) as to order of indorsements - that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon;

(f) as to stamps that a lost promissory note, bill of exchange or cheque was duly stamped;

(g) that holder is a holder in due course - that the holder of a negotiable instrument is a holder in due course:

Provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burden of proving that the holder is a holder in due course lies upon him."

"139. Presumption in favour of holder. It shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque, of the nature referred to in Section 138 for the discharge, in whole or in part, of any debt, or other liability".

28. It is now well settled that the said presumption **shall remain untill contrary is proved. In K. Bhaskaran vs Sankaran Vaidhyan Balan And Anr, (1999) 7 SCC 510** and also in **Rangappa v. Sri Mohan, (2010) 11 SCC 441**, the Hon'ble Supreme Court has held that the presumptions under Sections 118 (a) and 139 of the NI Act are rebuttable in nature and for rebuttal of the same accused need not to step into the witness box as he can rebut the same by placing reliance on the material brought on record by the complainant. It is also a well settled legal position that the presumptions can be rebutted even by raising presumptions of fact and law on the basis of material available on record. It is further well

settled that the standard required from the accused to prove his defence is preponderance of probabilities and accused need not prove his defence beyond reasonable doubts. Again in **Basalingappa vs Mudibasappa (2019) 5 SCC 418**, the Hon'ble Supreme Court categorically held as under:-

"10. The complainant being holder of cheque and the signature on the cheque having not been denied by the accused, presumption shall be drawn that cheque was issued for the discharge of any debt or other liability. The presumption under Section 139 is a rebuttable presumption. Before we refer to judgments of this Court considering Section 118 and 139, it is relevant to notice the general principles pertaining to burden of proof on an accused especially in a case where some statutory presumption regarding guilt of the accused has to be drawn."

29. Needless to mention herein that the presumption contemplated under Section 139 of the Negotiable Instruments Act, is a rebuttable presumption. **However, the onus of proving that the cheque was not in discharge of any debt or other liability is on the accused drawer of the cheque.** In the present case initial presumptions in terms of Section 118 (a) and 139 of the NI Act duly arise not only regarding existence of legally enforceable liability in favour of the complainant but also regarding issuance of cheque in question by the accused in favour of complainant in discharge of his aforesaid liability. Now, whether or not the accused has been able to rebut the said presumption is a question of fact which needs to

be decided after appreciation of entire evidence led on behalf of both the parties in the light of guiding principles laid down by the Hon'ble Supreme Court as mentioned herein above and depends upon the facts and circumstances of each case.

30. Again, this court is not oblivious of the position of law that the accused is only supposed to discharge his onus not beyond the reasonable doubt but on the principle of preponderance of probabilities which is again a settled position of law and it has been reiterated again and again through the judicial precedents that the said appreciation depends upon the facts and circumstance of each and every case and no air tight formula can be adopted in order to ascertain as to whether accused has been successful in dislodging the testimony of complainant before the court.

31. On the aspects of preponderance of probabilities, the accused has to bring on record such facts and such circumstances which may lead the court to conclude either that the consideration did not exist or that its nonexistence was so probable that a prudent man would, under the circumstances of the case, act upon the plea that the consideration did not exist. The Hon'ble Supreme Court in **Rohitbhai Jivanlal Patel vs State of Gujarat and Another 2019) 18 SCC 106** and in various

other rulings have time and again, emphasized that though there may not be sufficient negative evidence which could be brought on record by the accused to discharge his burden, yet mere denial would not fulfill the requirements of rebuttal as envisaged under section 118 and 139 of the NI Act. Further, it has been held in **Rajesh Agarwal v. State, 2010 SCC online Del 2501** that:-

"9..... There is no presumption that even if an accused fails to bring out his defence, he is still to be considered innocent. If an accused has a defence against dishonour of the cheque in question, it is he alone who knows the defence and responsibility of spelling out this defence to the court and then proving this defences is on the accused....."

32. The primary issue in the case in hand is to determine whether the accused has succeeded in discharging his burden i.e. whether he has successfully raised a probable defence in order to create a reasonable doubt in the case of complainant to discard the presumption of law in favour of complainant.

33. The defence of the appellant/convict on the basis of which, the present appeal has been filed is mainly that he had taken loan of Rs.20,000/- only from the complainant and issued cheque in question as blank security cheque, thereafter he asked the complainant to take the amount and return his cheque, which

complainant refused to do and thereafter, he suffered paralytic attack and was bed ridden for two years and has no legal liability towards the complainant. The appellant has also assailed the financial capacity of the complainant and it was argued that during trial specific questions were asked from the complainant in his cross-examination about showing of the present loan in his ITR and production of the ITR. Despite that the complainant failed to produce his ITR. Moreover, the complainant had failed to mention the exact date of demand or advancement of loan and also failed to disclose the mode, manner, time and place of alleged loan amount. There were material contradictions in the testimony of the complainant to the extent of filing of the particulars in the said cheque, as on the one hand, he had stated that when the cheque was handed over to him, it was pre-filled, whereas, on the other hand, he had stated that the particulars of the cheque were filled by the son of the appellant/respondent.

34. In the considered opinion of this court, none of the arguments raised by the Ld. Counsel for the appellant is sound enough to make this court come to a different conclusion then, that of Ld. Trial Court. In a complaint u/s. 138 of NI Act, the onus is upon the convict/appellant to bring sufficient material on record, so as to rebut the

presumption raised against him u/s. 118 & 139 of the NI Act.

35. From the defence raised by the appellant/convict, at least it is clear and infact admitted by the appellant /convict himself that:

- a) He and the complainant were known to each other and they were having friendly relations.
- b). The cheque in question bears his signature.
- c). The accused/appellant herein had handed over the cheque in question to the complainant.
- d). The accused/appellant had taken loan of Rs.20,000/- only from the complainant.

36. The above four points weaken the case of the accused and infact further strengthens the presumptions u/s. 118 & 139 of NI Act. Under the NI Act, the cause of action for filing a complaint u/s. 138 of NI Act arises when a cheque is dishonoured and the payee issues notice of the said dishonour to the drawer of the cheque calling upon him to make the payment of the cheque amount within 15 days and when the payee fails to make the payment within 15 days of receipt of notice, the cause of action arises on the 16th day to file the complaint u/s. 138 of NI Act.

37. The appellant/accused has admitted his signature

on the cheque in question and as soon as the drawer of the cheque admits his signature on the cheque, the presumptions u/s. 118 & 139 of NI Act come into effect. The Hon'ble Apex Court in **Rajesh Jain v. Ajay Singh, IX (2023) SLT 247-1 (2024) BC 129 (SC)=(2023) 10 SCC 148**, while discussing the appropriate approach in dealing with presumption under Section 139 of the NI Act, observed the following:

54..... Once the presumption under Section 139 was given effect to, the Courts ought to have proceeded on the premise that the cheque was, indeed, issued in discharge of a debt/liability. The entire focus would then necessarily have to shift on the case set up by the accused, since the activation of the presumption has the effect of shifting the evidential burden on the accused. The nature of inquiry would then be to see whether the accused has discharged his onus of rebutting the presumption. If he fails to do so, the Court can straightaway proceed to convict him, subject to satisfaction of the other ingredients of Section 138. If the Court finds that the evidential burden placed on the accused has been discharged, the complainant would be expected to prove the said fact independently, without taking aid of the presumption. The Court would then take an overall view based on the evidence on record and decide accordingly.

55. At the stage when the Courts concluded that the signature had been admitted, the Court ought to have inquired into either of the two questions (depending on the method in which the accused has chosen to rebut the presumption): Has the accused led any defence evidence to prove and conclusively establish that there existed no

debt /liability at the time of issuance of cheque? In the absence of rebuttal evidence being led the inquiry would entail: Has the accused proved the non-existence of debt/liability by a preponderance of probabilities by referring to the "particular circumstances of the case"?

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61. The fundamental error in the approach lies in the fact that the High Court has questioned the want of evidence on the part of the complainant in order to support his allegation of having extended loan to the accused, when it ought to have instead concerned itself with the case set up by the accused and whether he had discharged his evidential burden by proving that there existed no debt/liability at the time of issuance of cheque."

(Emphasis supplied)

38. On a perusal of the judgment on conviction dated 10.06.2025, it is clear that all the arguments of the appellant have been extensively dealt with by the Ld. Trial Court. The Ld. Trial Court rightly noted that the appellant had failed to rebut the presumptions raised u/s. 118 & 139 of NI Act.

39. This court does not find force in any of the arguments raised by the Ld. Counsel for the appellant so far as the financial capacity of the complainant and non-production of the ITR is concerned. In the considered opinion of this court, this is not fatal to the case of the complainant and the same appears to be just an afterthought, as the complainant has duly proved the service of notice upon the appellant and when the notice

was served upon the appellant, it was the first possible opportunity for the appellant to reply to the said notice and deny the averments made by the complainant /respondent in the said notice.

40. It is not understandable as to why despite receiving of legal demand notice, the respondent did not reply to the same and disputed the claim of the respondent then and there only. Moreover, merely because, the said loan amount was not shown by the complainant/respondent in his ITR will not make it illegal or not enforceable. It is now well settled that merely non-showing of loan amount of more than Rs.20,000/- does not make it an illegal transaction or bad in law or unenforceable u/s. 138 NI Act. In fact, the fact that the appellant himself had handed over a signed cheque to the respondent per se shows existence of liability upon him and now he cannot be allowed to say that the said liability is not enforceable.

41. The argument that the complainant had failed to disclose the exact date of demand for advancement of loan or that he failed to mention the mode, manner, time and place of demand is also of no consequence, as it does not materially affect the case of the complainant. In the absence of any other evidence or material on record pointed out by the appellant, mere bald denial as to the

existence legally enforceable debt or liability is not enough to rebut the presumption raised against him.

42. As per the case of the appellant/convict, he had taken loan of Rs.20,000/- from the complainant /respondent against which he had handed over the said cheque to the complainant, as blank signed security cheque, but, no other particulars were filled by him. Thus, in a way, he has admitted his liability towards the complainant to the extent of Rs.20,000/-.

43. Once the presumptions u/s. 118 & 139 of NI Act come into effect, the onus to rebut the same shifts upon the appellant/convict. So far as the argument that the appellant had only signed the cheque in question, and rest of the particulars were not filled by him and also argument regarding contradiction with regard to filling of particulars in the cheque are concerned, the same is not tenable in the eyes of law. Section 20 of the Negotiable Instruments Act talk about Inchoate stamped instruments and it specifically provides that when one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments, he thereby gives prima facie authority to the holder thereof to make or complete, as the case may be, upon the said negotiable instruments. It further provides that the person so signing shall be liable upon the said

instrument, in the capacity in which he signed the same to any holder in due course for such amount. Thus, section 20 of Negotiable Instruments Act specifically provides that when a cheque, duly signed by the issuer of the cheque, is handed over to another person, then the person having the possession of the cheque has prima facie authority to complete the particulars, which were left blank at the time of issuance of the said cheque. Thus, when the appellant had handed over the cheque in question, which was duly signed by him, to the respondent/complainant, the, respondent/complainant had implied authority to fill the remaining particulars in the cheque and the onus was upon the appellant to show that the cheque in question was misused by the respondent/complainant, but no evidence to that effect was ever led by the appellant before the Ld. Trial Court.

44. The judgments of **N. Vijay Kumar v. Vishwanath Rao N., 2025 (4) CLJ 659 (SC)** and **Sri Dattatraya v. Sharanappa, Criminal Appeal No. 3257/2024**, being heavily relied upon by Ld. Counsel for the appellant are not applicable to the facts of the present case. The facts in both the cases are quite distinguishable as there were other contradictions also, which were noted down by the Hon'ble Supreme Court, while making the observation in the said judgments. In **N. Vijay Kumar v. Vishwanath**

Rao N., the accused was able to rebut the presumption raised against him, as in that case, he had duly replied to the legal demand notice received by him and there was MOU, which was executed between the parties, wherein, it was specifically mentioned that the loan amount was finally settled and the signed cheques issued as security were got misplaced and a police complaint to that effect was also filed by the complainant therein.

45. Similarly, in **Sri Dattatraya v. Sharanappa**, the accused therein had duly replied to the legal demand notice denying the averments made by the complainant therein and the accused himself had also stepped into the witness box and duly proved his defence and it was also noticed by the court therein that the cheque in question was issued to some other person and not to the complainant in that case, therefore, on these grounds, both the accused persons were acquitted, which is not the case of the present appeal. In the present case, neither the appellant/accused replied to the legal demand notice, nor he had taken any steps to prevent the misuse of cheque in question. The appellant/accused did not even bother to lead any evidence in his defence, so as to atleast rebut the presumptions raised against him and it appears that the appellant/convict is just raising these false defences to evade his liability towards the complainant

/respondent.

46. In view of the above, it can be said that there is no infirmity and illegality in the judgment of the Ld. Trial Court and the appellant has been rightly convicted. In the present case accused has merely denied the liability and failed to prove the same either by rebutting the testimony of complainant through his cross examination which may lead this court to believe non-existence of the consideration for which cheque in question was allegedly issued to complainant by accused, nor his defence is so probable that any prudent man would believe the same in the facts and circumstances of the case in hand or by leading any cogent and believable evidence to support his defence.
47. Thus, this court is inclined to hold that Ld. Trial court had rightly convicted the appellant/accused, as the appellant failed to rebut the presumptions raised against him. This court does not find any illegality, infirmity or perversity in the impugned judgment under appeal, which may require any interference therein.
48. Therefore, the impugned judgment under appeal passed by the Ld. Trial Court is upheld and the appeal of the appellant/convict is hereby **dismissed**, being devoid of merit.
49. The record of the Ld. Trial court is ordered to be returned with the attested copy of this judgment.

50. Appeal file be consigned to the record room, after due compliance.

**Announced in the open court on
12th day of May, 2026.**

**(PUNEET PAHWA)
Special Judge (NDPS)/Addl. Sessions Judge/
North East/Karkardooma Courts/Delhi**