IN THE COURT OF SH. SAMAR VISHAL, ADDITIONAL SESSIONS JUDGE-02, SOUTH DISTRICT, SAKET COURTS, NEW DELHI

CRIMINAL APPEAL NO. 338/2025

CNR NO. DLST01-0139152025
IN THE MATTER OF

M/s Pepfuels Technologies Pvt Ltd
(through its authorized representative)
Mr. Pratik Kathil
Registered office at
59A, First Floor, Street no.2
Indirapuram, Ghaziabad, UP-201012

Also at
Corporate Office at
316/274, 2nd Floor
Saidulajab, Westend Marg
Saket, New Delhi

….Appellant

Versus

1. State
2. Sarabjeet Singh
(Proprietor of M/s Alpha Tour & Travels)
G-14, Palika Place
R K Ashram, New Delhi-110001
email- singhgillsarbjeet@gmail.com
contact-8512000055

…..... Respondents

DATE OF INSTITUTION	: 27.08.2025
DATE OF ARGUMENTS	: 15.01.2026
DATE OF PRONOUNCEMENT	: 06.03.2026
DECISION	: Dismissed

JUDGMENT

1. The present appeal is directed against the judgment dated 30.01.2023 passed by the learned Metropolitan Magistrate-01 (NI Act), South District (hereinafter referred to as "the learned Trial Court"), whereby the respondents/accused, M/s Alpha Tour and Travels and its proprietor Sarabjeet Singh, were acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 in a complaint instituted by the appellant/complainant, M/s Pepfules Technologies Pvt. Ltd.

2. The present complaint was instituted by the complainant for the commission of an offence punishable under Section 138 of the Negotiable Instruments Act, 1881. It is alleged that the complainant is a company duly incorporated under the provisions of the Indian Companies Act and having its registered office at Ghaziabad, Uttar Pradesh. The complainant claims to be India's first government-registered organization engaged in the business of doorstep delivery of petroleum products through specialised mobile dispensing bowsers duly approved by PESO,

and states that it has been carrying on the said business since the year 2017.

3. It is further alleged that accused no.1, M/s Alpha Tour and Travels, is a proprietorship concern and accused no.2, Sarabjeet Singh, is the sole proprietor and person in charge of the affairs of the said concern. According to the complainant, accused no.2 approached the complainant company for availing its services relating to the supply and doorstep delivery of diesel. Pursuant to negotiations between the parties, a Service Agreement dated 09.01.2020 was executed between them for the supply and delivery of diesel.

4. As per the terms of the said agreement, the complainant used to supply diesel to the accused and thereafter raise invoices in respect of the supplies so made. It is stated that the payments towards these invoices were to be made by the accused through cheques. The complainant alleges that from April 2020 onwards the accused started delaying the payment of the invoices raised by the complainant and continued to remain irregular in clearing the outstanding dues.

5. According to the complainant, as reflected in the ledger account maintained in the ordinary course of business by the complainant company, a sum of Rs.13,82,200/- remained outstanding and payable by the accused towards the complainant at the relevant time.

6. It is the case of the complainant that in order to discharge the aforesaid outstanding liability of accused no.1, accused no.2, Sarabjeet Singh, being the proprietor of the said concern, issued the cheque in question for a sum of Rs.13,82,200/- in favour of the complainant company. Upon presentation, the said cheque was dishonoured by the bank with the remarks ***"Funds Insufficient"***. Thereafter, the complainant issued a statutory legal demand notice to the accused calling upon them to make payment of the cheque amount within the prescribed period. As the accused allegedly failed to comply with the demand made in the notice, the complainant instituted the present complaint under Section 138 of the Negotiable Instruments Act before the learned Trial Court.

7. The learned Trial Court took cognizance of the offence on 06.11.2020 and summoned the accused Sarabjeet Singh only. Subsequently, on 12.09.2022, notice under Section 251 of the Code of Criminal Procedure was framed against accused no.2 Sarabjeet Singh. In response thereto, the accused admitted that the cheque in question bears his signatures, though he stated that the remaining particulars on the cheque were not filled in his handwriting. The accused further stated that there indeed existed an agreement dated 09.01.2020 between him and the complainant, whereby the complainant was to supply diesel to him and the payment for the same was to be made on every third day.

8. The accused claimed that at the time of execution of the said agreement, the complainant had obtained five blank signed cheques from

him as security and that the cheque in question was one of such cheques. According to him, the arrangement between the parties was that whenever diesel was supplied, an employee of the complainant would visit the office of the accused, deliver the diesel and obtain a receipt from the accused acknowledging the quantity supplied. The accused further stated that on every third day he used to make payment as reflected in such receipts.

9. It was further stated by the accused that during March 2020 a nationwide lockdown was imposed due to the COVID-19 pandemic. During that period, the authorised representative of the complainant allegedly contacted him telephonically and informed him that certain outstanding amounts were payable by the accused. The accused claims to have informed the complainant that since the receipts were with the complainant, the exact outstanding amount should be communicated to him. However, according to the accused, the complainant failed to inform him of the precise amount allegedly due. The accused also disputed that the list of buses mentioned by the complainant in the complaint belonged to him. He therefore stated that he was not liable to pay the cheque amount to the complainant. The accused further stated that he did not remember whether he had received intimation from the bank regarding the dishonour of the cheque. He also stated that he did not receive the legal demand notice as his office remained closed during the lockdown, though he admitted that the notice had been sent at the correct address of his office.

10. In order to prove its case, the complainant examined its authorised representative, Mr. Prateek Kathil, as CW-1. After the complainant's evidence was concluded, the incriminating circumstances appearing against the accused were put to accused Sarabjeet Singh in his statement recorded under Section 313 of the Code of Criminal Procedure. In his statement, the accused reiterated that he had been making payments regularly against the diesel supplied by the complainant. He stated that whenever the complainant supplied fuel, the representative of the complainant would obtain his signatures on a receipt acknowledging the quantity supplied.

11. The accused further stated that during the lockdown he received a call from the authorised representative of the complainant alleging that some amount was outstanding. According to the accused, he informed the authorised representative that no amount was due towards the complainant; however, if any amount was claimed to be due, the complainant should produce the receipts signed by him so that the same could be verified. The accused stated that the authorised representative allegedly expressed his inability to produce such receipts. Consequently, the accused did not make any payment as no documentary proof of the alleged dues was shown to him. The accused further stated that he had asked the authorised representative to meet him after the lockdown and produce the receipts to verify the alleged liability. Instead, according to the accused, the complainant presented the cheque in question and subsequently filed the present complaint. The accused claimed that he

has been falsely implicated in the present case. He admitted that the cheque bears his signatures but maintained that the other particulars on the cheque were not filled by him.

12. During the admission and denial of documents under Section 294 of the Code of Criminal Procedure, the accused admitted his signatures on the cheque in question. In his defence, the accused examined himself as DW-1.

13. After hearing the arguments advanced by both sides and upon appreciation of the material placed on record, the learned Trial Court passed the impugned judgment acquitting the accused. The said judgment of acquittal is now under challenge in the present appeal.

14. Coming now to the appeal. It is settled principle of law that if the trial Court, on due appreciation of evidence came to the conclusion about the findings of acquittal, then normally, if the findings is not perverse, then it should not be interfered with by the appellate Court. In this regard, reliance may be placed on the decision of the Hon'ble Supreme Court rendered in the case of ***Chandrappa and Others vs State of Karnataka (2007) 4 SCC 415***, wherein the Supreme Court has laid down legal principles for entertaining appeal against acquittal, which read as under:-

(A) An appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded;

(B) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate Court on the evidence before it may reach its own conclusion, both on questions of fact and of law;

(C) Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasise the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come to its own conclusion.

(D) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(E) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.

15. Now, keeping in view the aforesaid legal parameters governing interference with an order of acquittal, I proceed to appreciate the law, facts and evidence on record.

16. Section 139 of the Negotiable Instruments Act 1881 raises a presumption in favour of the holder regarding the existence of a legally enforceable debt or liability in discharge of which the cheque is stated to have been issued. The Hon'ble Supreme Court in B***asaligappa. Vs Mudibapassa AIR 2019 SC 1983,*** summarised the legal position governing the presumptions under Sections 118(a) and 139 of the Act as under-:

(i) Once the execution of cheque is admitted Section 139 of the Act mandates a presumption that the cheque was for the discharge of any debt or other liability.
(ii) The presumption under Section 139 is a rebuttable presumption and the onus is on the accused to raise the probable defence. The standard of proof for rebutting the presumption is that of preponderance of probabilities.
(iii) To rebut the presumption, it is open for the accused to rely on evidence led by him or accused can also rely on the materials submitted

by the complainant in order to raise a probable defence. Inference of preponderance of probabilities can be drawn not only from the materials brought on record by the parties but also by reference to the circumstances upon which they rely.

(iv) That it is not necessary for the accused to come in the witness box in support of his defence, Section 139 imposed an evidentiary burden and not a persuasive burden,

(v) It is not necessary for the accused to come in the witness box to support his defence.

17. On the touchstone of the aforesaid settled principles of law and guided by the judicial precedents governing the scope and ambit of Sections 118(a) and 139 of the Negotiable Instruments Act 1881, I now proceed to re-appreciate the facts and the evidence led in the case and examine the correctness, legality and propriety of the impugned judgment in the light of the material available on record. An appellate court, while dealing with an appeal against conviction, is duty bound to independently scrutinise the evidence and determine whether the findings recorded by the trial court are sustainable in law and borne out from the record. It is in this backdrop that the entire case has been revisited. In the conspectus of the entire evidence and the legal position governing prosecutions under Section 138 of the Negotiable Instruments Act, 1881, I find that the complainant’s case rests predominantly upon the statutory presumptions arising under the Act and the ledger entries maintained by the

complainant company, without adequate substantive evidence to independently establish the existence of a legally enforceable debt or liability corresponding to the cheque amount in question.

18. Turning now to the judgment under challenge, the learned Trial Court referred to the decision of the Hon'ble Supreme Court of India in ***Kusum Ingots & Alloys Ltd. and Others vs. Pennar Peterson Securities Ltd. and Others, (2000) 2 SCC 745***, wherein the essential ingredients required to constitute an offence under Section 138 of the Negotiable Instruments Act, 1881 were enumerated. The learned Trial Court first delineated the statutory requirements which must be satisfied for attracting penal liability under the said provision.

19. The learned Trial Court observed that in the present case the issuance of the cheque in question by the accused was not disputed. The accused had admitted his signatures on the cheque. In such circumstances, the statutory presumptions under Sections 118(a) and 139 of the Negotiable Instruments Act come into operation. Section 118(a) of the Act raises a presumption that every negotiable instrument was made or drawn for consideration. Section 139 of the Act further mandates a presumption that the holder of the cheque received the same for the discharge, in whole or in part, of a legally enforceable debt or liability.

20. The learned Trial Court further observed that the presumption under Section 139 of the Act is a rebuttable presumption and the burden

lies upon the accused to raise a probable defence so as to rebut the same. The combined effect of Sections 118(a) and 139 of the Act is that once the execution of the cheque is admitted, a presumption arises that the cheque was drawn for consideration and issued by the accused in discharge of a debt or other legally enforceable liability. Both provisions employ the expression "shall", thereby making it mandatory for the court to raise such presumptions once the foundational facts are proved.

21. The learned Trial Court also noted that the standard of proof required for rebutting the presumption is not proof beyond reasonable doubt but the lesser standard of preponderance of probabilities. For this purpose, it is open to the accused to rely upon the evidence led by him or to draw support from the material produced by the complainant. The inference of preponderance of probabilities may be drawn not only from the evidence adduced by the parties but also from the surrounding circumstances appearing on record. The presumption under Section 139 also includes a presumption as to the existence of a legally enforceable debt or liability.

22. Upon considering the admission of the signatures of the accused on the cheque in question, the learned Trial Court concluded that the statutory presumptions under Sections 118(a) and 139 of the Act were clearly attracted in the present case. However, after analysing the entire evidence on record, the learned Trial Court ultimately arrived at the

conclusion that the accused had been able to rebut the said presumptions by raising a probable defence.

23. The learned Trial Court further observed that the existence of a business relationship between the parties stood admitted and was also borne out from the Service Agreement dated 09.01.2020, exhibited as Ex.CW1/2. According to the complainant, the accused had started defaulting in making payments from April 2020 onwards and continued to remain in default till the filing of the present complaint on 04.11.2020, thereby accumulating an outstanding liability of Rs.13,82,200/-, towards which the cheque in question was allegedly issued.

24. On the other hand, the defence of the accused was that at the time of execution of the agreement, apart from the cheque in question, four other blank signed cheques had also been handed over to the complainant as security. It was further contended by the accused that he had been regularly making payments for the diesel supplied by the complainant in terms of the agreement Ex. CW1/2, and therefore he was not liable to pay the cheque amount claimed by the complainant.

25. The learned Trial Court thereafter relied upon the payment terms contained in the agreement between the parties. As per the agreement, the payments were to be made by the accused within 10 days from the date of the invoice, and in case of delay beyond five days thereafter, interest at the rate of 14% per annum was chargeable on the total outstanding value.

26. The complainant asserted that the alleged outstanding amount pertained to the period from April 2020 till the filing of the complaint in November 2020. Despite this alleged continuous default, the complainant admittedly continued to supply diesel to the accused during the said period. The learned Trial Court found this conduct to be improbable and inconsistent with the commercial terms stipulated in the agreement. The court observed that if the accused had indeed defaulted in payment for such a long duration, it would be expected of a prudent business entity either to demand payment formally or to suspend further supply of fuel until the outstanding dues were cleared.

27. The learned Trial Court further noted that the complainant did not place on record the invoices pertaining to the alleged supply of diesel between April 2020 and November 2020, which were the very foundation of the claimed liability. In the ordinary course of commercial dealings, invoices constitute primary documentary evidence of the transaction and the liability arising therefrom. The absence of such invoices was therefore considered a significant deficiency in the complainant's case.

28. The court also observed that the complainant had failed to produce any email correspondence, written communication, or even WhatsApp messages to demonstrate that during the said period the accused was ever called upon to clear the alleged outstanding amount of Rs.13,82,200/-. In

commercial transactions of this magnitude, some form of communication demanding payment would ordinarily exist. The absence of any such record further weakened the complainant's version.

29. During the cross-examination of the accused, certain emails were confronted to him. However, the learned Trial Court found those emails to be of March 2020, which was prior to the period during which the alleged outstanding liability is claimed to have arisen. Consequently, the said emails were not found to be of any relevance in establishing the alleged liability.

30. The complainant had also placed on record a ledger statement (Ex.CW1/3) maintained by the complainant company. While dealing with the evidentiary value of the said ledger, the learned Trial Court relied upon the judgment of the Hon'ble Madras High Court in ***Madras Cements Ltd. vs. T.M.T.Kannammal Educational Trust & Others***, wherein it was held that the requirement of Section 34 of the Indian Evidence Act is not satisfied merely by producing books of account. The person who prepared the accounts, or the person who made the entries, ought to be examined in order to prove the correctness of such entries.

31. Applying the said principle, the learned Trial Court observed that in the present case the complainant had not examined any member of its finance or accounts department who had prepared or maintained the ledger entries. This omission was significance particularly in view of

the suggestion put by the defence that the ledger statement was forged and fabricated. In the absence of proper proof of the accounts, the ledger entries could not be treated as conclusive proof of liability.

32. Another important circumstance relied upon by the learned Trial Court was the non-production of proof of delivery documents. During cross-examination, the authorised representative of the complainant admitted that whenever diesel was supplied, the delivery executive would obtain a proof of delivery duly signed by the accused or his representative, and that consolidated invoices were thereafter prepared after 7–10 days of delivery. However, despite specific questioning, the complainant admitted that these proof of delivery documents had not been placed on record. The learned Trial Court accordingly drew an adverse inference against the complainant for withholding the best available evidence which could have established the quantity of diesel supplied and the corresponding liability of the accused.

33. Lastly, the learned Trial Court relied upon the admission of the complainant himself that one cheque had been given by the accused as a security cheque. However, the complainant did not clarify as to which cheque had been given as security. This circumstance lent support to the defence raised by the accused that the cheque in question was one of the security cheques handed over at the time of execution of the agreement

and that the same had been misused by the complainant. The learned Trial Court therefore found the defence of the accused to be probable.

34. It is well settled, as expounded by the Hon'ble Supreme Court in ***Basalingappa vs. Mudibasappa (supra)***, that the accused is required to rebut the statutory presumption under Section 139 of the Negotiable Instruments Act only on the touchstone of preponderance of probabilities. The burden cast upon the accused is evidentiary and not persuasive. In the present case, through the cross-examination of the complainant, the surrounding circumstances, and the documentary material on record, the accused has succeeded in raising a probable defence sufficient to rebut the statutory presumption.

35. I am also mindful of the parameters governing appellate interference with an order of acquittal as enunciated by the Hon'ble Supreme Court in ***Chandrappa vs. State of Karnataka (supra)***. An appellate court ought not to disturb an acquittal merely because another view is possible. The double presumption of innocence — firstly, the fundamental presumption of innocence, and secondly, the reinforced presumption arising from the order of acquittal — operates in favour of the accused. Unless the findings of the trial court are shown to be perverse, manifestly illegal, or wholly unsupported by evidence, interference by the appellate court would be unwarranted.

36. In the present case, it is also the admitted position that a cheque had been handed over as a security cheque in the course of the business dealings between the parties. The accused has consistently taken the defence that the cheque in question was one of such security cheques which has been misused by the complainant. In the facts and circumstances of the present case, this defence cannot be said to be improbable.

37. Another significant lacuna in the complainant's case is the non-production of proof of delivery documents which were admittedly obtained at the time of each supply of fuel. These documents constituted the best evidence to establish the actual quantity of diesel supplied and the liability arising therefrom. Their non-production justifies the drawing of an adverse inference against the complainant. In such circumstances, the mere production of a ledger statement, without independent corroboration, cannot be considered sufficient to fasten criminal liability under Section 138 of the Negotiable Instruments Act.

38. In view of the foregoing discussion, the acquittal recorded by the learned Trial Court stands fortified both on facts and in law. The reasoning adopted by the learned Trial Court is cogent, the appreciation of evidence is judicious, and no perversity, illegality, or miscarriage of justice is discernible. The accused has successfully rebutted the statutory presumptions by raising a probable defence, whereas the complainant has

failed to establish the existence of a legally enforceable debt with the degree of certainty required in a prosecution under Section 138 of the Negotiable Instruments Act.

39. Consequently, the appeal is devoid of merit and is hereby dismissed. The judgment of acquittal dated 27.08.2024 under challenge in the present appeal is affirmed.

40. Ordered accordingly.

Samar vishal

Digitally signed by Samar vishal
Date: 2026.03.06 16:26:10 +0530

Announced in the open court
on 06.03.2026

(Samar Vishal)
ASJ-02/ South District
Saket Courts, Delhi/06.03.2026