

MHBU010015282025



Presented on : 12.12.2025
Registered on: 12.12.2025
Decided on : 17.03.2026
Duration : Y. Ms. Ds.
00 03 05

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, BULDANA,
DISTRICT BULDANA.**

(Presided over by Ravikumar K. Sharma)

Criminal Revision Application No. 32/2025

Exhibit No. 13

- 1) Ravindra Deviprasad Jaiswal
Age.- 51 yrs., Occ.- Business
R/o. Sangam Chowk, Buldhana
Tq. and District Buldana. ..Revision Petitioner
...Versus ...
- 1) Buldhana Urban Co-op. Credit
Society Buldhana,
Tahsil and District Buldana.
Through Loan Superintendent
(Prashant Suresh Kulkarni)
Age – 42 years, Occ. Service,
R/o Buldhana Market Road, Buldhana.
- 2) State of Maharashtra,
through, Assistant Public Prosecutor,
Buldana.

Respondents.

CRIMINAL REVISION PETITION UNDER SECTION 397, 399 READ
WITH SECTION 401 OF THE CODE OF CRIMINAL PROCEDURE

Appearances :

Shri. P. S. Waghware, advocate for revision Petitioner.

Shri. Bhairav Pandey, learned advocate for Respondent No. 1

Shri. V. L. Bhatkar learned AGP for respondent no. 2.

JUDGMENT

(Delivered on 17 March 2026)

01. This revision petition is preferred against Order passed by learned Judicial Magistrate First Class, Buldana in Criminal Case No. 418/2012 (Buldhana Urban -Vs.- Ravindra) whereby process was issued against petitioner.

In brief facts are as under :-

02. Respondent No. 1 had filed complaint for the offence punishable under Section 138 of the Negotiable Instrument Act against petitioner. On the said complaint process was issued. It is contended that the revision petitioner is the account holder as well as borrower of Buldhana Urban Society of Rs. 5 lakh taken on 09.06.2026 as loan. While taking loan, he has executed the required documents pertaining to loan. Accordingly, he was in debt of Society. A Demand of the outstanding amount was made to this revision petitioner. This revision petitioner has issued cheque of Rs.7,50,000/- dtd. 02.03.2012 bearing cheque No. 5070732 in favour of the respondent No.1- Society. For satisfaction of said legal liability the Society had tendered the cheque for encashment but said cheque was dishonored and returned unpaid with memo. Therefore, a notice was issued to revision petitioner on 17.03.2012 but he has not accepted the said notice due to which the Society initiated the proceeding against him U/s. 138 of N.I. Act and Section 420 of IPC. The main contention of the Revisionist is that the cheque in question was issued only as a security cheque and the same has been misused by the complainant. It is submitted that

there was no legally enforceable debt or liability and therefore the issuance of process is illegal.

03. Being aggrieved by the said order revision petitioner /accused preferred this criminal revision.

04. Heard Shri. P S. Waghware, learned advocate for the revision petitioner, Shri. Pandey, for respondent No.1 and Shri. V. L. Bhatkar learned AGP for respondent No.2. No say is filed by respondent No.1.

05. On perusal of record, following points arise for my determination and I have recorded my findings thereon for the reasons given below :-

	POINTS	ANSWER
1	Is impugned order is correct, legal and proper ?	Yes
2	Is impugned order liable to be interfered with ?	No
3	What order ?	Revision is Dismissed.

REASONS

AS TO POINT NO.1

06. Present revision is filed challenging the order passed by learned Magistrate below Exh.1 in S.C.C. No.418/2012, thereby learned Magistrate issued process against accused/revision petitioner for the offence punishable under Section 138 of N.I. Act.

07. From averments made in revision, it appears that the revision petitioner is the borrower of Respondent Society of Rs. 5 lakh. While taking loan, he had executed the documents pertaining to loan. Accordingly, he was in debt of Society. A Demand of the outstanding amount was made to this revision petitioner. This revision petitioner has issued cheque of Rs.7,50,000/- dtd. 02.03.2012 bearing cheque No.5070732 in favour of the respondent No.1-Society. For satisfaction of said legal liability, the Society had tendered the cheque for encashment but said cheque was dishonored and returned unpaid with memo. Therefore, the society initiated the proceeding against him U/s. 138 of N.I. Act and Section 420 of IPC.

08. It is to be noted that firstly the cheque was issued for discharge of legally enforceable liability. However, the cheque could not be honoured for want of sufficient balance. It is the contention of petitioner that on the alleged date there was no debt against the revision petitioner. The blank cheque was obtained from the revision petitioner on the date of alleged disbursement of loan amount and it was only against the security instrument not for enforceable debt. The alleged document filed on record are not properly taken into consideration by the Ld. Court, only mechanically issued the process against revision petitioner. Actually, there was no prior Demand Notice was served to this revision petitioner therefore, the complaint itself is not tenable u/s. 138 of N.I. Act.

09. In my view, whether or not demand notice was issued by respondent-Society is subject matter of trial. Learned Magistrate has rightly issued process on the basis of documents which were

filed by revision petitioner.

10. At the stage of issuance of process, the Learned Magistrate is only required to see whether a prima facie case is made out. The detailed defence of the accused cannot be considered at this preliminary stage.

11. Whether the cheque was issued as security and whether there existed a legally enforceable debt are matters of trial. Such defence can be adjudicated only after evidence is led by both sides.

12. It is well settled that even a security cheque, if presented towards a legally enforceable liability, may attract the provisions of Section 138 of the Negotiable Instruments Act.

13. In fact, in the impugned order passed by learned Magistrate has specifically stated that on going through the compliant, verification of the complainant and documents filed on record, the process was issued against the revision petitioner.

14. As said earlier, learned Magistrate has issued process considering verification, complaint and documents. As far as, contention argued by the applicant is concerned, in my humble submission it can not be said that learned Magistrate has issued process without recording his prima facie satisfaction as alleged by the applicant.

15. In view of discussion made above, I hold that the impugned Order is legal, correct and proper and it does not call for

any interference. Hence, I answer point No.1 in affirmative and point No.2 in negative.

AS TO POINT NO. 3 :-

16. In view of my findings to point Nos. 1 & 2 above, revision application deserves to be dismissed. Hence, I pass following order.

ORDER

1. Criminal Revision No. 32/2025 is dismissed.
2. Inform trial court accordingly.

Sd/-

(Ravikumar K. Sharma)
Additional Sessions Judge,
Buldana.

Date :- 17/03/2026

Certificate

I affirm that the contents of this judgment is same word for word as per Judgment.	
Name of Court	Additional Sessions Judge, Buldana.
Name of Steno	C. N. Mahale, Stenographer (Grade 1)
Sign Date	17.03.2026
Upload Date	17.03.2026

ORDER

1. The present Criminal Revision Application has been filed by the Revisionist challenging the order dated ___ passed by the Learned Judicial Magistrate First Class, _____ in Complaint Case No. ___, whereby process has been issued against the accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.
2. The main contention of the Revisionist is that the cheque in question was issued only as a security cheque and the same has been misused by the complainant. It is submitted that there was no legally enforceable debt or liability and therefore the issuance of process is illegal.
3. I have heard the learned counsel for the Revisionist and the learned counsel for the Respondent. I have also perused the record and proceedings.
4. At the stage of issuance of process, the Learned Magistrate is only required to see whether a prima facie case is made out. The detailed defence of the accused cannot be considered at this preliminary stage.
5. Whether the cheque was issued as security and whether there existed a legally enforceable debt are matters of trial. Such defence can be adjudicated only after evidence is led by both sides.
6. It is well settled that even a security cheque, if presented towards a legally enforceable liability, may attract the provisions of Section 138 of the Negotiable Instruments Act.
7. Upon perusal of the complaint, verification statement, cheque, return memo and statutory notice, this Court finds that the Learned Magistrate has rightly issued process after being satisfied that prima facie ingredients of Section 138 are made out.
8. No illegality, perversity or jurisdictional error is found in the impugned order warranting interference in revisional jurisdiction.

ORDER

The Criminal Revision Application stands **dismissed**.

The order dated ___ passed by the Learned JMFC issuing process under Section 138 of the Negotiable Instruments Act is hereby confirmed.

Trial Court record be sent back forthwith.

Pronounced in open Court on this ___ day of ___, 20.

(Signature)

Sessions Judge