

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Criminal Revision Petition No. 1078/2026

CNR: RJHC010648132026

URN: CRLR / 2392U / 2026

Anurag Dhoot S/o Surajkaran Dhoot, Aged About 47 Years, R/o 8-A-7, R.c. Vyas Colony, Bhilwara (Rajasthan).

----Petitioner

Versus

Ms Kuber Fabrics Private Limited, Through Director Anil Kumar Agarwal S/o Kanakmal Agarwal, R/o G-173, 1St And 2Nd Phase, Riico Industrial Area, Bhilwara.

----Respondent

For Petitioner(s) : Mr. Nikhil Ajmera

For Respondent(s) : -

**HON'BLE MR. JUSTICE KULDEEP MATHUR
ORDER**

17/07/2026

1. The present writ petition under Section 438 read with Section 442 BNSS has been filed by the petitioner seeking the following reliefs:

"That it is, therefore, most humbly and respectfully prayed that-

*(i) That the revision petition may kindly be allowed and part of the **Judgment dated 02.04.2026** passed by Learned Special Judge, SC/ST Cases, Bhilwara in Criminal Appeal No. 98/2021 (266/2021) titled as 'Anurag Dhoot Vs Ms Kuber Fabrics Pvt. Ltd.' may kindly be quashed and set aside and modify the impugned judgment by directing dismissal of the complaint in toto and recording acquittal of petitioner from offence under Section 138, The Negotiable Instruments Act, 1881*

(ii) Any other relief which court may think fit be granted in favor of the petitioner."

2. The brief facts of the case The respondent instituted a complaint under Section 138 of the Negotiable Instruments Act

alleging dishonour of ten cheques issued by the petitioner. The Trial Court convicted the petitioner and sentenced him to six months' simple imprisonment along with payment of compensation. In appeal, the Appellate Court noticed that the cheque return memos (Exhibits P-11 to P-20) did not bear the official seal or signature of the bank and no certificate under Section 65B of the Indian Evidence Act accompanied the computer-generated return memos.

3. The learned Appellate Court set aside the conviction holding that the statutory requirement under Section 146 of the Negotiable Instruments Act had not been duly satisfied. However, instead of acquitting the petitioner, it remanded the matter to the Trial Court with liberty to the complainant to adduce additional evidence confined only to proving the return memos, while also granting corresponding liberty to the accused to lead rebuttal evidence.

4. Learned counsel for the petitioner contended that once the Appellate Court concluded that dishonour of the cheques had not been proved in accordance with law, the inevitable consequence ought to have been acquittal. It was submitted that the complainant cannot be permitted to fill up lacunae in its case after conclusion of the trial and that the remand amounts to granting a fresh opportunity to reconstruct the prosecution.

5. Learned counsel further submitted that the cheque return memos did not attract the statutory presumption under Section 146 of the Negotiable Instruments Act, as they did not bear the official mark, seal or signature of the concerned bank. It was, therefore, argued that dishonour of the cheques had not been

proved in accordance with law and the Appellate Court erred in remanding the matter instead of recording an order of acquittal. In support of his submissions, learned counsel placed reliance upon the judgment of the High Court of Madhya Pradesh (Jabalpur Bench) in **Dinesh Kumar Sahu v. Dheeraj Suryawanshi (Criminal Appeal No.1608/2023)** and the judgment of the High Court of Delhi in **Samsung India Electronics Pvt. Ltd. v. MGR Enterprises & Ors. (Crl. L.P. No.344/2019)**.

6. Heard.

7. Having heard learned counsel for the petitioner and upon perusal of the material available on record, this Court finds that the Appellate Court has exercised its appellate jurisdiction in a fair and balanced manner. This Court further finds that the remand is confined only to the proof of the cheque return memos and does not amount to a *de novo trial*. The learned Appellate Court has categorically held that the cheque return memos produced by the complainant did not satisfy the requirements of Section 146 of the Negotiable Instruments Act and further noticed the absence of a certificate under Section 65B of the Indian Evidence Act in respect of the computer-generated documents. Consequently, the conviction recorded by the Trial Court was set aside.

8. However, instead of terminating the proceedings by recording an acquittal, the learned Appellate Court directed a limited remand enabling the complainant to prove the return memos in accordance with law while simultaneously granting the accused an opportunity to lead rebuttal evidence. The remand is thus narrowly tailored and confined to a specific evidentiary issue.

9. The contention that the complainant has been permitted to fill up lacunae cannot be accepted. There is a well-recognized distinction between permitting a party to remove a technical defect in the mode of proof and permitting it to introduce an altogether new case. The impugned order does not authorize the complainant to alter the nature of its case or adduce evidence beyond the limited purpose indicated therein. Equally, the apprehension that the petitioner is being subjected to a fresh trial is misconceived. The Appellate Court has not directed a *de novo trial* but has confined the remand to a limited issue while preserving the petitioner's right to rebut the additional evidence. In the opinion of this Court, in cases relating to dishonour of cheque, the presumption always lies in favour of the holder of the cheque.

10. The decisions relied upon by learned counsel for the petitioner also do not advance his case. Those judgments were rendered on the facts obtaining therein. In the present case, the Appellate Court itself has accepted the objection regarding the admissibility of the cheque return memos and has accordingly set aside the conviction. The only question is whether, in the facts of the case, a limited remand could be ordered. This Court finds that the discretion exercised by the learned Appellate Court in directing a restricted remand, while safeguarding the rights of both parties, does not suffer from any jurisdictional error warranting interference.

11. This Court is, therefore, of the considered opinion that no patent illegality, perversity or jurisdictional error has been demonstrated in the impugned judgment dated 02.04.2026 so as

to warrant interference in exercise of the extraordinary writ jurisdiction of this Court. Consequently, the writ petition, being devoid of merit, is dismissed. Pending applications, if any, also stand disposed of.

(KULDEEP MATHUR),J

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