

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 149 of 2017

Dulal Chatterjee, son of Late Motilal Chatterjee, resident of House No.3,
Rakhal Path, Bengal Tiger Society, Anilsur Path, Uliyan, Jamshedpur,
P.O.-Kadma, P.S.-Kadma, District-East Singhbhum

... .. **Petitioner**

Versus

1. The State of Jharkhand
2. Budhdeo Giri, S/o Shankar Giri, R/o-C-6/1, Eden Park, Bhatia Basti,
P.O. & P.S.-Kadma, Jamshedpur, District-East Singhbhum

... .. **Opp. Parties**

P R E S E N T

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioner : Mr. A.K. Sahani, Advocate
For the State : Mr. Suraj Deo Munda, A.P.P.
For the O.P. No.2 : Mr. Tarun Kumar, Advocate

C.A.V. on 17.07.2026

Pronounced on 20/08/2026

1. I have already heard the arguments of Mr. A.K. Sahani, learned counsel for the petitioner, Mr. Suraj Deo Munda, learned A.P.P. and Mr. Tarun Kumar, learned counsel appearing for the opposite party No.2.

2. Instant criminal revision is directed against the judgment dated 16.07.2016 passed by learned Additional Sessions Judge-VII, Jamshedpur, in Criminal Appeal No. 03 of 2016, whereby and whereunder the learned Appellate Court dismissed the appeal and affirmed the judgment of conviction and order of sentence dated 09.12.2015 passed by learned Judicial Magistrate, 1st Class, Jamshedpur in C/1 Case No. 2315 of 2013 whereby and whereunder, the petitioner has been convicted for the offence under Section 138 of Negotiable Instrument Act and sentenced to undergo S.I. for one year along with payment of compensation of Rs.65,000/-.

Factual Matrix

3. Factual matrix giving rise to this revision is that the complainant, Budhdeo Giri, lodged a complaint case being C/1 Case No. 2315 of 2013 stating *inter alia* that the accused, namely Dulal Chatterjee being proprietor of M/s Bengal Tiger Security Services, had taken a friendly loan of Rs.50,000/- from the complainant and in discharge of the said friendly loan, the accused issued an account payee cheque for Rs.50,000/- of his proprietorship firm, bearing No.706841 dated 17.04.2013, in favour of the complainant drawn on Oriental Bank of Commerce, Branch Bistupur, Jamshedpur. The complainant deposited the said cheque before his banker, Bank of India, Uliyan Branch, Kadma for encashment, but the same was dishonoured on account of “insufficient fund” and was returned to the complainant along with a cheque return memo dated 08.06.2013. Thereafter, the complainant sent a legal notice dated 17.06.2013 through registered post with A/D, demanding the cheque amount within 15 days. However, the accused failed to make payment of the said amount within the stipulated period and sent a reply to the said legal notice dated 05.07.2013 through his lawyer. Under these circumstances, it is claimed that the accused has committed an offence under Section 138 of the N.I. Act and accordingly, the complaint case has been instituted.

4. The learned Trial Court took cognizance of the offence under Section 138 of the N.I. Act against the accused petitioner. Upon appearance of the accused, the substance of accusation was explained

to him, to which he pleaded not guilty and claimed to be tried.

5. In order to substantiate the case, the complainant was examined as a witness (C.W.-1) and adduced following documentary evidence:-

(i) *Exhibit-1-Original cheque No. 706841 dated 17.04.2013 of Rs.50,000/-*

(ii) *Exhibit-2-Original cheque return memo*

(iii) *Exhibit-3-Office copy of legal notice*

(iv) *Exhibit-3/1-Original postal receipt*

(v) *Exhibit-4-Reply to the legal demand notice*

6. On the other hand, defence has also examined one witness, namely Reena Chatterjee (D.W.-1), wife of the accused.

7. The accused, in his statement recorded under Section 313 of the Cr.P.C has pleaded innocence.

8. Learned Trial court after scrutinizing the evidence adduced by the parties held the petitioner guilty for the offence under section 138 of N.I. Act and awarded sentence for S.I. of one year along with payment of compensation of Rs.65,000/-. The convict (petitioner) filed Cr. Appeal No. 03 of 2016, which was also dismissed by affirming the judgment of conviction and the order of sentence passed by learned Appellate Court, which has been assailed in this revision.

9. Learned counsel for the petitioner has submitted that the impugned judgments/orders passed by both the learned Courts below are not sustainable either in the eyes of law or on the facts and circumstances of the case, and are liable to be set aside. It is further submitted that the complaint itself was not maintainable and ought to

have been rejected, as the complainant failed to establish the basic requirements for invoking the provisions of Section 138 of the Negotiable Instruments Act and also failed to prove any legally enforceable liability of the petitioner towards the alleged amount of Rs.50,000/-. The learned Courts below further failed to appreciate that the cheque in question was neither filled up nor issued by the petitioner and apart from the complainant, no independent witness was examined to support or corroborate the allegations made in the complaint petition. It is also submitted that the learned Trial Court failed to properly consider the documents brought on record by way of evidence, while the learned Appellate Court also erred in not appreciating that the complainant had failed to prove due service of the statutory notice upon the petitioner. The findings recorded by both the learned Courts below are thus perverse, contrary to the materials available on record and suffer from non-consideration of relevant evidence. Accordingly, it is submitted that the impugned judgments/orders, being contrary to law and the evidence available on record and having been passed without fulfillment of the mandatory legal requirements, are liable to be set aside and the petitioner deserves to be acquitted from the charge leveled against him. Hence, this revision may be allowed.

10. *Per contra*, learned A.P.P. for the State as well as learned counsel for the opposite party No.2 controverting the aforesaid contentions raised on behalf of the petitioner has submitted that the learned Courts below have rightly appreciated the evidence and

recorded concurrent findings regarding guilt of the petitioner for the offence under Section 138 of the N.I. Act, which suffers from no illegality or impropriety calling for any interference in this revision, which is devoid of merit and fit to be dismissed.

11. I have gone through the record of the case and perused the impugned judgment passed by learned Trial Court as well as the learned Appellate Court in the light of contentions raised on behalf of both side.

12. It appears that the complainant has duly proved the cheque in question, cheque return memo, statutory legal notice, postal receipt and reply to the notice. The cheque was dishonoured for insufficiency of funds and the complaint was instituted within the prescribed period. The statutory requirements for constituting the offence under Section 138 of the N.I. Act stand duly established. The complainant has proved all the essential ingredients of the offence under Section 138 of the N.I. Act. The statutory presumptions under Sections 118 and 139 of the N.I. Act operate in favour of the complainant. The concurrent findings recorded by the learned Trial Court and the learned Appellate Court are based on proper appreciation of the evidence and materials on record.

13. In view of above discussion and reasons, I don't find any valid reasons for interference in the impugned judgment and orders passed by learned Trial Court and the learned Appellate Court and no merits in the revision, which stands **dismissed**.

14. Pending I.A.(s), if any, stands disposed of accordingly.

15. Let a copy of this order along with Trial Court Record be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court
Dated 20/08/2026
Arpit/ N. A. F. R.
Uploaded on 20/08/2026