

# IN THE SUPREME COURT OF INDIA

## APPELLATE JURISDICTION / LANDMARK PRECEDENT

### Triyambak S. Hegde v. Sripad

Registry Status : REPORTED PRECEDENT -- OFFICIAL RECORD

#### 1. EXECUTIVE SUMMARY & KEY HIGHLIGHTS

In *Triyambak S. Hegde v. Sripad* (2022) 1 SCC 742, a three-judge bench of the Supreme Court firmly reinforced the mandatory nature of the statutory presumption under Section 139 of the Negotiable Instruments Act, 1881. The Court held that once the signature on a cheque is admitted, the presumption of a legally enforceable debt operates automatically. An accused cannot rebut this presumption by merely putting forward a plausible story of a 'misplaced cheque' without contemporaneous corroboration such as a police report, stop-payment instructions, or a reply to the statutory demand notice. The Court also strictly curbed High Courts from reappreciating evidence in revision to overturn concurrent convictions.

- \* Automatic Trigger of Section 139 Presumption: Admission of signature on a cheque immediately casts the reverse burden on the drawer that the instrument was issued for debt discharge.
- \* Failure to Reply to Notice as Fatal Omission: Remaining silent upon receipt of a Section 138 demand notice without issuing stop-payment or lodging a police complaint destroys a belated 'lost cheque' defense.
- \* Rebuttal Standard Demands Cogent Evidence: Preponderance of probabilities requires objective evidentiary material; bare denial or unsupported explanations do not rebut Section 139.
- \* Strict Revisional Boundaries under CrPC 397/401 / BNSS 438/442: High Courts cannot reappreciate evidence to overturn concurrent findings of conviction recorded by two lower courts.

#### 2. FACTUAL MATRIX & IMPUGNED PROCEEDINGS

Complainant *Triyambak S. Hegde* and respondent *Sripad* were acquaintances. The complainant advanced a hand loan of Rs. 4,00,000/- in cash to the respondent for business expansion and residential house construction.

Towards discharge of the loan obligation, the respondent issued a cheque for Rs. 4,00,000/- drawn on Corporation Bank, Sirsi. When presented for clearing, the cheque was returned dishonoured with the banker's memo 'funds insufficient'.

The complainant issued a statutory demand notice under Section 138 proviso (b). The notice was duly served on the respondent, but he neither paid the amount nor sent any reply denying the transaction or explaining the cheque.

The Trial Magistrate convicted the respondent under Section 138, sentencing him to 6 months imprisonment and a fine of Rs. 4,00,000/-. The Sessions Court dismissed the criminal appeal, confirming conviction.

In Criminal Revision under Section 397/401 CrPC, the Karnataka High Court overturned both concurrent judgments and acquitted the respondent, holding that complainant had not proved loan source and accepted the defense that the cheque was misplaced. The complainant appealed to the Supreme Court.

#### 3. RATIO DECIDENDI (VERBATIM COURTROOM HOLDING)

3-Judge Bench Holding on Section 139 NI Act:

The Supreme Court held that the High Court committed a grave error in exercising revisional jurisdiction under Sections 397/401 CrPC by reappreciating evidence and disturbing concurrent findings of fact.

#### 4. OBITER DICTA & JUDICIAL OBSERVATIONS

The three-judge bench expounded upon the jurisprudential mechanics of statutory presumptions and revisional limits:

- \* **Prudent Person Test for Drawer Conduct:**If a person actually loses a signed cheque leaf, ordinary human conduct dictates that he would immediately inform his banker to stop payment and lodge a missing report with the police. Complete inaction followed by silence upon receiving a demand notice creates an irresistible inference of guilt.
- \* **Complainant's Financial Capacity:**ReaffirmingRohitbhai Jivanlal Patel v. State of Gujarat(2019) 18 SCC 106, the Court held that the complainant is not required to prove his financial capacity or show cash receipts in the first instance. The presumption under Section 139 operates at the threshold; only if the accused raises a probable defense does the question of proving financial capacity arise.
- \* **Revisional Jurisdictional Restraint:**The Court reiterated that Section 397/401 CrPC is supervisory in nature and not an appeal in disguise. Revisional courts cannot substitute their own view of evidence unless the findings of the courts below are perverse or based on no evidence.

5. POINTS OF LAW FRAMED & ANSWERED

| Legal Issue Framed                                                                                                               | Supreme Court's Holding                                                                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Does admission of signature on a cheque automatically trigger the presumption under Section 139 NI Act?                          | Yes. Once the signature is admitted, Section 139 presumes that the cheque was drawn in discharge of a legally enforceable debt, shifting the evidentiary burden to the accused.                |
| Can an accused rebut Section 139 by claiming the cheque was misplaced without lodging a police complaint or stop-payment notice? | No. A belated defense of a lost or stolen cheque without contemporaneous police complaints, stop-payment instructions, or a reply to the demand notice cannot rebut the statutory presumption. |
| Can the High Court in revisional jurisdiction reappreciate evidence to overturn concurrent convictions in Section 138 cases?     | No. The High Court in revision cannot reappreciate evidence or disturb concurrent factual findings unless patent perversity or jurisdictional error is demonstrated.                           |

6. STATUTORY FRAMEWORK & MODERN LEGISLATIVE ALIGNMENT

| Precedent Reference / Former Statute                 | Modern Act (BNSS / BNS / BSA / CPA)                          | Doctrinal & Procedural Analysis                                                                                   |
|------------------------------------------------------|--------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| Section 139, Negotiable Instruments Act, 1881        | Section 139, NI Act (Presumption of Consideration & Debt)    | Mandatory statutory reverse burden; operative immediately upon admission or proof of signature.                   |
| Sections 397 & 401, Code of Criminal Procedure, 1973 | Sections 438 & 442, Bharatiya Nagarik Suraksha Sanhita, 2023 | Revisional jurisdiction; strictly barred from reappreciating evidence to upset concurrent findings of conviction. |
| Sections 101, 102 & 106, Indian Evidence Act, 1872   | Sections 104, 105 & 109, Bharatiya Sakshya Adhiniyam, 2023   | Burden of proof and special knowledge; accused must prove facts within his exclusive knowledge on preponderance.  |
| Section 114(g), Indian Evidence Act, 1872            | Section 119, Bharatiya Sakshya Adhiniyam, 2023 (BSA)         | Adverse inference drawn against accused for failure to reply to statutory demand notice.                          |

7. SUBSEQUENT JUDICIAL TREATMENT & LINEAGE

- \* **Tedhi Singh v. Narayan Dass Mahant (2022) 6 SCC 735:**Applied Triyambak Hegde to reject drawer's challenge to complainant's loan capacity in the absence of a reply to notice.
- \* **Kalamani Tex v. P. Balasubramanian (2021) 5 SCC 283:**Affirmed the reverse onus doctrine where blank signed cheque was admitted.
- \* **Rajesh Jain v. Ajay Singh (2023) 10 SCC 148:**Cited Triyambak Hegde extensively on the staged mechanics of presumption and standard of rebuttal.
- \* **Rathish Babu Unnikrishnan v. State (NCT of Delhi) (2022) SCC OnLine SC 513:**Reaffirmed limits on quashing where Section 139 presumption is operative.

## 8. PRACTICAL LITIGATION PLAYBOOK & STRATEGIC CHECKLIST

- \* Highlight Absence of Reply:Emphasize to the Court that the accused failed to respond to the statutory notice, drawing an adverse inference under BSA 119 / IEA 114.
- \* Cross-Examine on Inaction:Inquire whether accused filed an FIR, GD entry, or stop payment memo when the cheque was allegedly lost; absence of records demolishes the defense.
- \* Rest on Admission of Signature:Once signature is admitted under Section 313 CrPC (BNSS 351), argue that complainant need not prove financial capacity in chief examination.
- \* Defend Concurrent Findings in Revision:Cite Triyambak Hegde to oppose reappreciation of evidence by High Courts under BNSS 438/442.
- \* Never Leave Demand Notice Unanswered:Issue a detailed, legally robust reply within 15 days denying debt and explaining the precise circumstances under which the cheque left custody.
- \* Produce Contemporaneous Police Reports:If a cheque was stolen or lost, place the stamped police station GD entry / FIR and written bank intimation on record.
- \* Disprove Financial Capacity Through Cross-Examination:Confront complainant with income tax returns, bank balance, and source of cash funds to create a preponderance of doubt.
- \* Examine Bank Witness on Stop Payment Timing:If stop payment was issued, prove through the bank manager that the instruction preceded the presentation date.