

2025:PHHC:078210



133.

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-A-1139-MA-2014

Date of decision: 02.07.2025

M/s Hind Furniture Emporium Applicant

Versus

Shree Markendeshwar Education Trust and another Respondents

133/2.

CRM-A-1404-MA-2014

M/s Hind Furniture Emporium Applicant

Versus

Shree Markendeshwar Education Trust and another Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Shivam Singh Chauhan, Advocate, for
Mr. Ashok Kumar Khubbar, Advocate, for the applicant.

None for the respondents.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant leave to appeals are directed against the judgment(s) of acquittal passed by learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri, whereby the respondent-accused was acquitted of the offence under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as the NI Act).

2. Since these appeals have arisen out of the same complaint, they are being taken up together for disposal by this common order.

3. As per the allegations in the complaint(s), the applicant (hereinafter referred to as the complainant) is engaged in the business of wood work and furnishing under the name and style of M/s Hind Furniture Emporium. Allegedly, the respondent-accused approached the complainant for wood work in connection with an educational institution then under development. In this regard, the complainant claimed to have advanced a sum of Rs.2 lakhs, partly through demand drafts and partly in cash.

4. Two cheques – bearing No.563944, dated 15.12.2004 for Rs.4 lakhs and another cheque No.562800, dated 10.11.2004 for Rs.1 lakh, both drawn on Dena Bank –were allegedly issued by the respondent-accused in discharge of the said liability. Upon presentation, both cheques were dishonoured due to insufficient funds. Despite the issuance of legal notices dated 04.04.2005 and 13.05.2005, the accused failed to remit the amounts. Consequently, the complainant initiated proceedings under Section 138 of the NI Act.

5. Learned Trial Court, after considering the evidence on record, held that the complainant failed to establish that the cheques were issued in discharge of a legally enforceable debt or liability, and accordingly acquitted the accused vide the impugned judgment(s).

6. Learned counsel for the complainant has contended that the Trial Court erred in not properly appreciating the statutory presumption

under Section 139 of the NI Act, which arises upon admission of signature on the cheque. Learned counsel submitted that the accused did not deny his signatures, and his defence – that the cheques were given as blank security – is vague and unsupported by evidence. Learned counsel further argued that the complainant discharged the initial burden by proving issuance and dishonor of the cheque and it was incumbent upon the accused to rebut the statutory presumption, which was not done.

7. I have heard learned counsel and perused the material placed on record.

8. The principal issue for consideration is whether the complainant successfully proved the existence of a legally enforceable debt or liability for which the impugned cheques were issued.

9. A perusal of the record reveals that the issuance of cheques and the signatures of the accused thereon are not disputed. Accordingly, the presumption under Section 139 of NI Act stands attracted. However, this presumption is rebuttable, and the burden shifts to the accused to raise a probable defence. It is settled law that such a defence need not be proved beyond reasonable doubt but must cast sufficient doubt on the existence of a legally enforceable liability.

10. In the present case, the complainant has failed to produce any cogent evidence to substantiate the alleged transaction:

- No details regarding the dates, purpose or manner of the alleged advancement of Rs.2 lakhs were furnished;

- During cross-examination, the complainant admitted that the proposed project site was still under construction and that no work had actually commenced;
- The person, who allegedly introduced the parties, one Jai Singh, was not examined;
- While the complainant claimed to have advanced Rs.2 lakhs, the cheques were for Rs.4 lakhs and Rs.1 lakh, with no explanation provided for the discrepancy;
- No documentary evidence (such as agreement, receipts, or books of account) was produced despite the assertion by the complainant that such records were available.

11. Significantly, the complainant admitted to having received 5 blank cheques signed by the accused as security for prospective work. In light of this admission, the defence version – that the cheque in question was one of those blank cheques issued as security for a contract that never materialized – appears credible. The version of the complainant is inconsistent and lacks supporting documentation or corroborative evidence.

12. The statutory presumption under Section 139 of the NI Act does not obviate the responsibility of the complainant to prove the existence of a legal liability. In the absence of cogent evidence, the presumption stands rebutted.

13. On a comprehensive appraisal of the evidence, this Court finds no infirmity in the findings recorded by the Trial Court in the impugned judgment(s). The complainant has failed to discharge the burden of proving that the cheques were issued in discharge of a legally enforceable debt or liability.

14. Accordingly, the present appeals are dismissed.

(MANJARI NEHRU KAUL)
JUDGE

July 02, 2025
sanjeev

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No