

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CRIMINAL REVISIONAL JURISDICTION)

**Present:**

**Mr. Justice Md. Bashir Ullah**

**Criminal Revision No. 4938 of 2025**

**In the matter of:**

An application under Section 439 read with  
Section 435 of the Code of Criminal  
Procedure

**And**

**In the matter of:**

Md. Jahangir Hossain

...**Convict- Petitioner.**

-Versus-

Mst. Naznin Sultana and another

..... **Opposite Parties.**

None appear

..... For the petitioner.

Ms. Suria Begum, Advocate

.....For Opposite Party No. 1.

Mr. Md. Shafiquil Islam, D.A.G with

Ms. Farhana Abedin, A.A.G with

Mr. Hemayth Uddin, A.A.G and

Mr. K. M. Saiful Islam, A.A.G

... For the State

**Heard on 30.04.2026, 04.05.2026 and  
05.05.2026**

**Judgment on 12.05.2026**

This Rule was issued at the instance of the  
petitioner calling upon the opposite parties to show cause as

to why the judgment and order dated 03.07.2025 passed by the learned Sessions Judge, Jashore in Criminal Appeal No. 328 of 2024 dismissing the appeal and affirming the judgment and order of conviction and sentence dated 20.03.2024 passed by the learned Joint Sessions Judge, Additional Court, Jashore in Sessions Case No. 1596 of 2022 arising out of C.R Case No. 983 of 2021 (Kotwali) convicting the petitioner under section 138 of the Negotiable Instruments Act, 1881 and sentencing him to suffer simple imprisonment for a period of 05 (five) months and to pay a fine of Tk. 2,40,000/- (two lacs and forty thousand) only, should not be set aside and/or other or further order or orders be passed as to this Court may seem fit and proper.

The facts relevant for disposal of the Rule, in brief, are that the opposite party No. 1, Most. Naznin Sultana as complainant filed C.R Case No. 983 of 2021 before the Court of the Senior Judicial Magistrate, Cognisance Court, Sadar, Jeshore against the present petitioner alleging *inter alia* that the accused obtained a loan amounting to Taka 9,60,000/- (nine lacs sixty thousand) from the complainant on

20.04.2020. Upon failure to repay the said amount in time, the accused issued cheque No. 9529817 dated 30.03.2021 in favour of the complainant on 20.04.2020 towards repayment of the outstanding liabilities amounting to Taka 2,40,000/- (two lacs forty thousand). The cheque was dishonoured by the concerned bank on 03.05.2021 due to insufficiency of funds. Thereafter, a statutory legal notice was published in Daily Nabaoraj on 09.05.2021 to the petitioner demanding payment of the cheque amount, but the petitioner failed to comply with the same. Consequently, the case was filed on 10.06.2021.

The learned Magistrate took cognisance and thereafter transmitted the case record to the learned Sessions Judge, Jeshore. Subsequently, the same was transferred to the learned Joint Sessions Judge, Additional Court, Jeshore and the case was registered as Sessions Case No. 1596 of 2022. The charge was framed under section 138 of the Negotiable Instruments Act, 1881. Prosecution examined 1 witness to prove the indictment. The accused was examined under section 342 of the Code of Criminal Procedure and repeated innocence.

Upon conclusion of the trial and hearing, the learned Joint Sessions Judge, Additional Court, Jeshore convicted the petitioner under Section 138 of the Negotiable Instruments Act of 1881 and sentenced him to suffer simple imprisonment for a period of 05 (five) months and to pay a fine of Tk. 2,40,000/- (two lacs and forty thousand) only by judgment and order dated 20.03.2024.

Challenging the conviction and sentence, the petitioner filed Criminal Appeal No. 328 of 2024 before the learned Sessions Judge, Jeshore, who upon hearing, dismissed the same by judgment and order dated 03.07.2024, affirming the order of conviction and sentence.

Being aggrieved by and dissatisfied with the judgment and order dated 03.07.2025, the petitioner preferred the instant Criminal Revision before this Court and obtained Rule along with an order of bail.

When the revisional application was taken up for hearing, none appeared on behalf of the petitioner to support

the rule, although the matter appeared in the daily cause list on 30.04.2026, 04.05.2026, 05.05.2026 and 12.05.2026.

Ms. Suria Begum, the learned Advocate appearing on behalf of the opposite party No. 1, submits that there is no illegality, impropriety or infirmity in the impugned judgments and orders. The Courts below rightly convicted and sentenced the petitioner and as such the Rule is liable to be discharged.

I have heard the learned Advocates for the opposite party No.1, perused the revisional application and the materials on record.

It appears from the petition of complaint, the deposition of PW1 (complainant) and the documentary evidence that the convict-petitioner issued the cheque in favour of the complainant, being No.  $\frac{CDB}{B}$  9529817 dated 30.03.2021 for Taka 2,40,000/-(two lacs forty thousand) for the adjustment of the loan. The complainant presented the cheque to the concerned bank on 03.05.2021 but it was dishonoured endorsing "insufficient fund". The complainant published a statutory legal notice on 09.05.2021 but the petitioner failed

to make payment within the stipulated period. Consequently, the case was filed on 10.06.2021. PW1 has successfully proved the prosecution's case.

The record shows that the complainant has duly complied with the procedures laid down in Section 138 of the Act, 1881 in filing the case. The case was filed within one month of the date on which the cause of action had arisen under clause (c) of the proviso to Section 138. The complainant also proved consideration against which the cheque was drawn and that it is the holder of the cheque in due course. The Courts below rightly found the petitioner guilty of the charge. Hence, the impugned judgment and order of conviction does not suffer from any illegality, impropriety or infirmity.

However, with regard to the sentence, reliance may be placed upon the decision passed in *Aman Ullah Vs. State*, reported in 73 DLR (2021) 541, wherein this Court set aside the sentence of imprisonment holding that the sentence of imprisonment would be a harsh sentence having no penal

objective to be achieved. I have no disagreement with the *ratio* passed in the above-mentioned case.

Considering the facts and circumstances of the case, this Court is of the view that the ends of justice would be best served if the sentence is modified by setting aside the term of imprisonment.

In view of the foregoing discussions and *ratio*, the order of the Court is as follows:

The conviction of the petitioner under Section 138 of the Negotiable Instruments Act, 1881 is hereby affirmed. However, the sentence is modified. The sentence of 05(five) months simple imprisonment is set aside. It appears that the convict-petitioner has already deposited 50% of the cheque amount before the trial Court prior to filing the appeal. The Court concerned is directed to disburse the said deposited money to the complainant-opposite party No. 1 forthwith. The convict-petitioner is directed to pay the remaining portion of the value of the dishonoured cheque to the complainant-opposite party No. 1 through the trial Court within 03(three) months from the date of receipt of this order, in default he

will suffer simple imprisonment for 01(one) month. If the convict-petitioner does not pay the remaining portion of the fine as ordered or opts to serve out the period of imprisonment in lieu of payment of fine, he is not exempted from paying the same. In that event, the Court concerned shall realise the fine under the provisions of Section 386 of the Code of Criminal Procedure.

In the result, the Rule is discharged with modification of the sentence and with directions made above. The convict-petitioner is released from the bail bond.

Send down the lower Court's records (LCR) at once. Communicate the judgment and order to the Court concerned forthwith.

*(Md. Bashir Ullah, J)*