

In the Supreme Court of Bangladesh
High Court Division
(Criminal Revisional Jurisdiction)

PRESENT:

MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN

CRIMINAL REVISION NO. 5787 OF 2025

Ismail Hossain Hriday-----Convict-petitioner

-Versus-

The State and another.....Opposite parties

Mr. Md. Taizul Islam with

Mrs. Fatema-Tuj-Johora, Advocates

.... For the convict-petitioner

Mr.Hossain Md. Borhan, Advocate

.....For the opposite party No. 2

Mr. Md. Anichur Rahman Khan, DAG with

Mrs. Tashrifa Sultana Jali, AAG with

Mr. Md. Emdadul Hoque, AAG

.....For the state

Heard and judgment on: **The 22nd of June, 2026**

ABU TAHER MD. SAIFUR RAHMAN, J.

This Rule was issued at the instant of the convict-accused-petitioner calling upon the opposite parties to show cause as to why the judgment and order dated 06.05.2025 passed by the learned Additional District and Sessions Judge, 1st Court, Rajbari in Criminal Appeal No. 259 of 2024 dismissing the appeal and thereby affirming the judgment and

order of conviction and sentence dated 04.06.2024 passed by the learned Joint Sessions Judge,, 2nd Court, Rajbari in Sessions Case No. 838 of 2023, arising out of C.R. Case No. 728 of 2022 convicting the petitioner under section 138 of the Negotiable Instrument Act, 1881 and sentencing him to suffer rigorous imprisonment for 1 (one) year and also to pay a fine of **Tk. 5,54,000/-** should not be set aside and/or such other or further order or orders as to this Court may seem fit and proper.

At the time of issuance of the Rule, this Court was pleased to enlarge the accused-petitioner on ad-interim bail till to disposal of the Rule.

For the purpose of disposal of the Rule, the relevant facts, in brief, are stated as follows:

That the complainant-opposite party No. 2 are the businessman and had maintained a long-standing cordial business relationship. Owing to such relationship, the complainant reposed trust and confidence in the accused. In the course of their business dealings, both parties jointly undertook the water tank and electrical works of Package House under Ashrayan Project-3 at Bhashanchar, Hatia, Noakhali, under the Bangladesh Navy. The complainant initially bore the entire cost of materials, labour and other expenses for the said work. It was mutually agreed that the payments released by the Bangladesh Navy would be deposited into the accused's One Bank Limited Account No. 0769100003939 and, after realization of the bills,

the proceeds would be distributed between the parties in the ratio of 62% to the complainant and 38% to the accused.

After receipt of the bill amount, the accused failed to pay the complainant's agreed share. Upon repeated demands, the accused acknowledged his liability and, on 22.02.2022, issued Cheque No. OBL/SB-A 9355307 for an amount of **Tk. 5,54,000/-** drawn on One Bank Limited, Chatarpaiya Branch, Noakhali, in favour of the complainant, assuring him that the cheque would be honoured upon presentation. Relying on such assurance, the complainant presented the cheque through his account maintained with Dutch-Bangla Bank Limited, Rajbari Branch on 18.07.2022. However, the cheque was dishonored and returned unpaid with the endorsement "Payment Stopped by Drawer."

Thereafter, despite verbal requests, the accused failed to make payment. Consequently, the complainant served a statutory legal notice dated 19.07.2022 under section 138 of the Negotiable Instruments Act, 1881, demanding payment of the cheque amount. The accused received the notice on 07.08.2022 but deliberately failed to pay the cheque amount within the statutory period, thereby committing an offence punishable under section 138 of the Negotiable Instruments Act, 1881 and hence the instant case was filed against the accused-petitioner.

Mr. Md.Taizul Islam, the learned Advocate appeared on behalf of the convict-petitioner,

Mr. Hossain Md. Borhan, the learned Advocate appeared on behalf of the complainant opposite party No. 2.

Mr. Md. Anichur Rahman Khan, the learned Deputy AttorneyGeneral appeared on behalf of the State.

During the hearing, the learned Advocates for both parties jointly submitted that, during the pendency of the Rule , the dispute was amicably settled out of Court and the accused petitioner paid the entire cheque amount to the complainant-respondent No. 2 as evidenced by **Annexure-‘1’** to the application.

In support of this submission, the learned Advocates for both sides jointly filed a compromise petition stating that the complainant had received the entire cheque amount from the convict-petitioner and thereby confirming that the matter has been fully and finally settled.

At the time of hearing, the complainant-respondent No. 2 was personally present before this Court and, upon query, candidly admitted that he has received the entire cheque amount, has no grievance against the convict petitioner, and that the dispute has been amicably settled out of Court.

I have considered the submissions of the learned Advocates; the compromise application jointly filed by both parties and also examined the provisions of law. The offence under Section 138 of the Negotiable Instruments Act, 1881 is compoundable and the parties are legally entitled to compromise the matter at any stage of the proceeding, even after conviction.

In view of the provisions of subsections (5) and (6) of section 345 of the Code of Criminal Procedure, the compromise arrived at between the parties is hereby accepted. Accordingly, the convict petitioner is acquitted of the charge and the instant Criminal Revision stands disposed of.

The judgment and order dated 06.05.2025 passed by the Additional District and Sessions Judge, 1st court Rajbari in Criminal Appeal No. 259 of 2024 arising out of Judgement and order of conviction and sentence dated 04.06.2024 passed by the Joint Sessions Judge , 2nd Court Rajbari in Sessions Case No. 838 of 2023, arising out of C.R. Case No. 728 of 2022 convicting the accused-appellant under section 138 of the Negotiable Instruments Act, 1881 is hereby set aside, and the convict-appellant is acquitted of the charge.

The convict-appellant is permitted to withdraw a sum of **Tk. 2,77,000/-** (Taka two lac and seventy-seven thousand) lying deposited before the Court in connection with Sessions Case

No. 838 of 2023, arising out of C.R. Case No. 728 of 2022, which had been deposited by the convict -petitioner towards part satisfaction of the cheque amount.

The bail bond stands discharged.

Send down the Lower Court Record (LCR).

Communicate this judgment and order to the concerned Court below at once.