

Sanjabij Tari v. Kishore S. Borcar & Anr.

Criminal Appeal No. 1755 of 2010

[2025] 9 S.C.R. 1515 : 2025 INSC 1158 | 2025-09-25

Whether the High Court could reverse concurrent section 138 NI Act findings on the alleged absence of the complainant's financial capacity and a signed-blank-cheque defence; whether breach of section 269SS makes a cash debt unenforceable or defeats NI Act presumptions; and what further measures were required to expedite cheque cases.

269SS | 271D

Two-judge bench | Manmohan, J. | N.V. Anjaria, J.

Assessment years: See the source-scope notes; no year inferred.

01 FACTS OF THE CASE

The complainant challenged the Bombay High Court at Goa's ex parte revisional order dated 16 April 2009, which acquitted the first respondent under section 138 of the Negotiable Instruments Act, 1881 and reversed the Trial Court and Sessions Court. The asserted friendly loan was Rs 6 lakh. The accused admitted signing the dishonoured cheque but contended that he had given a signed blank cheque to help the complainant obtain a bank loan. He also relied on the complainant's monthly salary of Rs 2,300 and indebtedness to challenge financial capacity. The complainant's evidence was that he had advanced part of his own borrowing and borrowed further from his father, a cloth merchant. The Trial Court on 30 April 2007 and Sessions Court on 17 September 2008 had accepted the loan and found the statutory presumptions un rebutted. The accused had not replied to the statutory notice. The complainant offered to accept payment in instalments if the lower-court orders were restored. The salary and incapacity objections are recorded as the accused's case; the Supreme Court did not adopt them as proof that the loan was fictitious.

Source: [reported rendition / paragraphs 1-10; 22-26 / PDF pages 6, 7, 8, 11, 12 / judgment](#); [official signed judgment / paragraphs 1-10; 22-26 / PDF pages 1, 2, 3, 6, 7, 8 / judgment](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court read Chapter XVII of the NI Act as protecting the credibility of cheques. Admission of execution attracted the presumptions of consideration under section 118 and discharge of a legally enforceable debt under section 139. Those presumptions remain rebuttable: the accused may use independent material, the complainant's own evidence and cross-examination. APS Forex did not remove the initial presumption merely because the underlying loan was in cash; once rebutted, the evidential burden could return to the complainant (paragraphs 11-18, 22-29).

On the Income-tax Act issue, the Court rejected the Kerala High Court's legal conclusion in P.C. Hari v. Shine Varghese that a cash transaction above Rs 20,000 in breach of section 269SS fell outside legally enforceable debt unless satisfactorily explained. It held that the statutory consequence addressed by sections 269SS and 271D is a penalty, and neither provision declares the transaction illegal, invalid or statutorily void. A section 269SS breach therefore does not by itself make the debt unenforceable under section 138 of the NI Act or rebut sections 118 and 139. The conclusion of law in P.C. Hari was set aside (paragraphs 19-20). This was not an assessment or penalty appeal, and no individual tax liability or amount was adjudicated.

On the evidence in this appeal, the accused had produced no documents or independent evidence establishing the complainant's inability to lend. Reading the complainant's testimony as a whole supported his ability to arrange the funds. The Court also relied on the absence of a reply to the notice, the failure to challenge the use of the cheque after that notice, and the implausibility of the asserted bank-loan explanation. It held that the High Court had no basis, absent perversity, to overturn concurrent findings in revision (paragraphs 22-32).

The judgment also addressed the backlog of cheque cases, without turning the tax point into the whole dispute. Paragraph 36 directed additional dasti and applicable electronic service supported by affidavits; court-operated secure QR/UPI payment facilities; a prescribed complaint synopsis; no section 223 BNSS pre-cognizance summons for these NI Act complaints; recorded reasons before conversion of summary trials and initial questions to identify the defence; early use of section 143A where appropriate; physical listing after service with fact-dependent exemptions; realistic evening-court pecuniary limits; and Delhi, Mumbai and Calcutta dashboards, reviews and High Court monitoring. Paragraphs 35 and 39 addressed compounding and possible Probation of Offenders Act relief. Revising the Damodar S. Prabhu compounding guidelines, paragraph 38 provided for no cost when the cheque amount is paid before defence evidence, 5% after defence evidence but before the trial judgment, 7.5% before the Sessions Court or High Court in appeal/revision, and 10% before the Supreme Court. These are compounding costs, not Income-tax Act penalties, and compounding remains expressed as a court-permitted disposition.

02 DISCUSSION BY THE HON'BLE COURT

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Source: [reported rendition / paragraphs 15-20 / PDF pages 9, 10, 11 / judgment](#); [reported rendition / paragraphs 21-32 / PDF pages 11, 12, 13, 14 / judgment](#); [reported rendition / paragraphs 33-39 / PDF pages 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 / judgment](#); [official signed judgment / paragraphs 15-20 / PDF pages 4, 5, 6 / judgment](#); [official signed judgment / paragraphs 22-32 / PDF pages 6, 7, 8, 9, 10 / judgment](#); [official signed judgment / paragraphs 36-39 / PDF pages 12, 13, 14, 15, 16, 17, 18, 19 / judgment](#)

03 JUDICIAL DECISION

The appeal was allowed. The High Court order dated 16 April 2009 was set aside and the Trial Court and Sessions Court judgments and orders were restored. The first respondent was directed to pay Rs 7,50,000 in fifteen equal monthly instalments of Rs 50,000. The High Courts and District Courts were directed to implement the judgment's guidelines by 1 November 2025. The decision does not itself establish subsequent payment or implementation compliance.

Source: [reported rendition / paragraphs 40 / PDF pages 24 / judgment](#); [official signed judgment / paragraphs 40 / PDF pages 19 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Appellant-complainant; adverse to first respondent-accused

Appeal allowed; High Court acquittal reversed and lower-court judgments and orders restored with a Rs 7.5 lakh instalment-payment direction

Cheque-enforceability and evidential issues decided; wider case-management and compounding directions issued

No income-tax assessment or section 271D penalty was imposed. The section 269SS point preserves enforceability and initial presumptions; it does not make those presumptions irrebuttable or exempt cash dealings from applicable tax consequences.

Source: [reported rendition / paragraphs 40 / PDF pages 24 / judgment](#); [official signed judgment / paragraphs 40 / PDF pages 19 / judgment](#)

05 AKHB REVIEW POINT

Separate three questions in a cash-loan cheque file: whether the debt is proved under the NI Act's rebuttable presumptions, whether the accused has raised a probable defence on financial capacity or misuse, and whether tax-law consequences independently arise. A section 269SS objection alone does not answer the first question. Do not translate the judgment's discussion of transactions above Rs 20,000 into a complete threshold or exemption checklist: aggregation, persons covered, the applicable historical text and exceptions require their own review. Nor should paragraph 20's reference to the payee/holder be read as a finding that this complainant owed a section 271D penalty; no such liability was decided. Distinguish the Rs 7.5 lakh case-specific payment order from the separate graded compounding costs. Check later treatment and procedural implementation before relying on the broader NI Act directions. No automatic Income-tax Act, 2025 mapping is made.

Source: [reported rendition / paragraphs 15-20; 22-32; 36-40 / PDF pages 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24 / judgment](#)

PROVISION-SPECIFIC SCOPE

1.

Provision: Income-tax Act, 1961, section 269SS

Role: Substantive interpretation of the effect of a breach on the enforceability of a cash loan and NI Act presumptions

Paragraphs: 19-20

2.

Provision: Income-tax Act, 1961, section 271D

Role: Statutory penalty consequence distinguished from illegality, invalidity or statutory voidness of the transaction; no penalty imposed or computed in this appeal

Paragraphs: 20

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Manmohan, J.

OTHER GOVERNING ACTS

Negotiable Instruments Act, 1881; Code of Criminal Procedure, 1973; Bharatiya Nagarik Suraksha Sanhita, 2023; Probation of Offenders Act, 1958; Constitution of India

RELEVANCE TO INCOME-TAX ACT RESEARCH

Substantive Income-tax Act application or directions within non-tax litigation

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported rendition\)](#)

Identified source rendition: 24 PDF pages; SHA-256

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Open cited source rendition

The Income-tax Act holding is embedded in a final NI Act criminal appeal; it is not an income-tax appeal and is not appropriately labelled simply for assessee or Revenue.

Paragraphs 19-20 distinguish penalty from invalidity. They do not decide a particular section 269SS breach, impose section 271D penalty or determine the person liable in separate tax proceedings.

The source uses cash transactions above Rs 20,000 when describing P.C. Hari. This note does not substitute that phrase for the full statutory coverage, aggregation rules and exceptions.

Presumptions remain rebuttable; financial capacity may still be tested on evidence. The result does not hold every signed cheque proves a debt conclusively.

The complaint-synopsis form in paragraph 36(D), the general administrative directions and revised compounding costs have been distinguished from the case-specific payment relief.

The index judges field lists Manmohan alone. The SCR cover and official signed close verify the two-judge bench of Manmohan and N.V. Anjaria.

No neighbouring judgment appears in the bounded source; reporter headnotes and Result of the case are not used as substitute operative text.

SCR and neutral citations printed on the SCR cover; neutral citation also printed on the official original.

No assessment year is stated or adjudicated. The appeal concerns cheque dishonour and the legal effect of cash-loan restrictions, not an income-tax assessment.

SCR cover date agrees with the dated closing page of the official original.

STATUTORY SCOPE

The Income-tax Act, 1961 provisions as discussed in the judgment; no independent consolidated current-statute audit

No automatic mapping to the Income-tax Act, 2025 or certification of current compliance requirements.

LATER TREATMENT

Source checked 2026-10-04. Subsequent review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[reported rendition - Physical PDF page 1 - PDF pages: 24](#)

SHA-256: f36178118ead4eef4ea4fa9a5f0eaa1f50e6ebe42a97da327e87f376345816f5

[official signed judgment - PDF pages: 19](#)

SHA-256: e2f46ab148257a547605a67cb80c05358917c21ad973e2a72d2123d190f258c9

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