IN THE COURT OF THE IInd ADDITIONAL SESSIONS JUDGE, DEHRADUN
Present: Mahesh Chandra Kaushiwa (H.J.S.)
CRIMINAL REVISION NO. 211 OF 2026
C.N.R No. UKDD01-003946-2026

M/s Sharma Associates Through its Proprietor Banke Bihari Sharma, S/o Late S.P. Sharma, Office at: Radha Palace, 78 Rajpur Road, Dehradun.	**Revisionist**
Versus	
1. State of Uttarakhand, Through D.G.C. Criminal District, Dehradun. **2. Shri Dushyant Kumar Aggarwal, S/o Late Shri Ved Prakash Aggarwal, Through its General Representative Shri Vishal Aggarwal, R/o 9, Ekta Avenue, Rajpur Road, Dehradun.**	**Respondents**
Counsel for Revisionist :	**Learned Counsel Shri V.K Pandit,**
Counsel for Respondent no. 1 : **Counsel for Respondent no. 2 :**	**Learned ADGC (Criminal) Shri Arvind Kapil,** **Learned Counsel Shri Harpal Singh Rode,**
Date of Institution of Criminal Revision	**24-08-2026**
Date on which arguments were heard	**24-10-2026**
Date of Judgment	**05-11-2026**

JUDGMENT

This Criminal Revision has been preferred under Section 397(1) read with Section 438(1) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, challenging the impugned order dated

15.07.2026 passed by the learned Court of ACJM-I (Special NI Act Court), Dehradun, in Criminal Complaint Case No. 3535 of 2021 (Dushyant Kumar Aggarwal vs. M/s Sharma Associates), under Section 138 of the Negotiable Instruments Act, 1881. By the impugned order, the learned trial court partially rejected the revisionist/accused's application dated 04.06.2026, refusing to take on record the defense documents listed in three distinct schedules dated 05.11.2024, 21.10.2024, and 30.11.2024.

2. The facts essential for the disposal of the present revision petition are that the underlying complaint case is at the stage of defense evidence. The revisionist/accused intended to rely upon a series of defense documents presented via lists dated 05.11.2024, 21.10.2024, and 30.11.2024. The learned trial court initially rejected the admissibility of these documents via an order dated 25.03.2025. Aggrieved by the same, a prior Criminal Revision No. 109 of 2025 was preferred before the Court of Ist Additional Sessions Judge, Dehradun.

3. Perusal of the record reveals that Criminal Revision No. 109 of 2025 was decided on 17.07.2025 on the basis of explicit mutual consent between both parties. The Revisional Court, via its order dated 17.07.2025, categorically set aside the trial court's order dated 25.03.2025 and directed that:

"The learned trial court is directed to ensure that the documents filed via application dated 10.03.2025 are taken on record. If any rebuttal documents are filed by the revisionist/complainant/accused against the documents filed via application dated 10.03.2025, or if an application is presented by the revisionist/accused under Section 311 of the Code of Criminal Procedure to recall D.W.-2... then sufficient opportunity shall be granted for the same."

4. Subsequent to the order of the Revisional Court, the Ld. trial court via an interlocutory order dated 24.03.2026 permitted the revisionist/accused to physically substitute the original documents

with certified copies (सत्यापित). The learned trial court, through the now-impugned order dated 15.07.2026, adopted a highly technical stance, holding that because the original document lists dated 05.11.2024, 21.10.2024, and 30.11.2024 were physically withdrawn under the intermediate order dated 24.03.2026, they "ceased to exist on record," and therefore could not be permitted to be exhibited or utilized for cross-examination. On this technicality, the trial court partially rejected the accused's application.

5. Heard learned counsel for both parties and perused the record of the lower court.

6. Upon a deeper examination of the trial Court record, this Court deems it essential to address the systemic procedural errors that originated with the Ld. Trial court's intermediate order dated 24.03.2026. The record reveals that the documents submitted via the lists dated 05.11.2024, 21.10.2024, and 30.11.2024 were already safely within the physical custody of the trial court as part of the judicial file.

7. The lower court’s order dated 24.03.2026, which entertained and allowed the application to "take back" the original documents on the premise that they were "not on record," is a glaring exercise in hyper-technicality that ought to have been entirely avoided. There was absolutely no legal or procedural necessity to return the original documents or mandate their substitution with certified copies at that intermediate juncture. Once a document is filed before a court of law during trial proceedings, it forms an intrinsic part of the judicial record until the final disposal of the case.

8. By needlessly creating a procedural loop of withdrawing originals and retaining certified copies, the lower court laid down a flawed foundation. It then used its own hyper-technical order of 24-03-2026 as a convenient pretext in the impugned 15-07-2026 order to declare that the defense documents had "ceased to exist" on the active file. This approach represents a classic procedural trap. The

Ld. trial court first induced an artificial absence of the original papers and subsequently penalized the accused for that very absence, effectively frustrating the operational mandate of the superior Revisional Court’s consent order dated 17.07.2025.

9. Court procedures are designed to serve as a handmaid of justice, not as a minefield of technicalities to defeat substantive rights. The Ld. trial court's insistence on treating the documents as extinguished simply because they were subject to an unnecessary administrative substitution order constitutes a grave abuse of judicial process. The documents remained substantively before the court in the form of certified copies, and their relevance to the statutory presumptions under Sections 118 and 139 of the NI Act was never diminished. Crucially, the learned trial court completely failed to adhere to the mandate of the higher Revisional Court’s consent order. The Ld. trial court's order effectively shut out the defense evidence, causing a manifest miscarriage of justice and striking a severe blow to the revisionist’s right to a fair trial.

10. It is a fundamental principle of criminal jurisprudence that the accused has an absolute, unalienable right to a fair trial and a complete opportunity to put forth a comprehensive defense. This right cannot be whittled away by mechanical procedural constraints. In the present case, both parties had voluntarily entered into a mutual consent agreement before the Revisional Court on 17.07.2025. The parties are strictly required to adhere to the directions explicitly given in that earlier order dated 17.07.2025. A consent order reflects the recorded consensus of the parties and carries a binding judicial mandate. Neither the complainant can be permitted to resile from its operational terms by engineering subsequent technical exits, nor can the Ld. trial court bypass its explicit obligations to provide the accused with a full, substantive opportunity for defense evidence and re-examination under the guise of handling intermediate applications.

11. Consequently, the impugned order dated 15.07.2026 suffers from material illegality, procedural irregularity, and an excess of jurisdiction, making it liable to be set aside. Hence Present Criminal Revision is liable to be allowed.

ORDER

The present Criminal Revision is allowed.

The impugned order dated 15.07.2026 passed by the learned Court of ACJM-I (Special NI Act Court), Dehradun, in Complaint Case No. 3535 of 2021 is hereby set aside.

The parties are directed to strictly adhere to and implement the directions as set out in the earlier consent order dated 17.07.2025 passed in Criminal Revision No. 109 of 2025, ensuring that the statutory rights of the accused to present a full defense are completely preserved.

The learned trial court is strictly directed to undo the hyper-technical entanglements created by its orders dated 24.03.2026 and 15.07.2026. The defense documents filed under the lists dated 05.11.2024, 21.10.2024, and 30.11.2024 shall be treated as continuously and validly existing on the judicial record for all trial purposes, including exhibition, examination-in-chief, and cross-examination, without requiring any further formal reapplication from the revisionist/accused. Concomitantly, in the interest of justice and equity, a reciprocal opportunity is afforded to the Respondent/Complainant to lead evidence in rebuttal, if any, in accordance with the law.

In the light of the older directives, both parties are ordered to fully cooperate with the Ld. trial court for an expeditious disposal without seeking unnecessary adjournments.

Let the record of theTrial Court be returned forthwith along with a certified copy of this order.

The revision file be consigned to the record room after due compliance.

(Mahesh Chandra Kaushiwa)
IInd Additional Sessions Judge
Dehradun.
05.11.2026

Judgment signed, dated and pronounced in open Court today.

(Mahesh Chandra Kaushiwa)
IInd Additional Sessions Judge
Dehradun.
05.11.2026