

NIA S. 139

Negotiable Instruments Act, 1881 (26 of 1881) – S. 138, 139 – Accused has admitted issuance of the cheques and his signature on the cheque and that the cheque in question was issued for the second time, after the earlier cheques were dishonoured and that even according to the accused some amount was due and payable – Presumption under Section 139 of the N.I. Act that there exists a legally enforceable debt or liability is rebuttable in nature – However, to rebut the presumption the accused was required to lead the evidence that full amount due and payable to the complainant has been paid – No such evidence has been led by accused – Story put forward by the accused that the cheques were given by way of security is not believable in absence of further evidence to rebut the presumption and more particularly the cheque in question was issued for the second time, after the earlier cheques were dishonoured – Both the courts below have materially erred in not properly appreciating and considering the presumption in favour of the complainant that there exists legally enforceable debt or liability as per Section 139 of the N.I. Act. – Courts below have committed error in shifting the burden upon the complainant to prove the debt or liability, without appreciating the presumption under Section 139 of N.I. Act. – Accused convicted. [#2020 Scej 45](#)