

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO(s). \_\_\_\_\_ OF 2025  
(Arising out of SLP(Crl.) No.14187/2025)**

**SHINE VARGHESE KOIPURATHU**

**APPELLANT(S)**

**VERSUS**

**STATE OF KERALA & ANR.**

**RESPONDENT(S)**

**ORDER**

1. Leave granted.
2. Heard learned counsel for the parties.
3. The appellant has called in question the impugned judgment and order passed by the High Court of Kerala in Criminal Revision Petition No. 408 of 2024, wherein the revision petition preferred by the respondent no. 2 has been allowed and he has been acquitted of the charges under section 138 of the Negotiable Instruments Act, 1881<sup>1</sup>.
4. Considering the nature of the order we propose to pass, we are not narrating in detail the facts of the case and the evidence adduced by the parties in trial.
5. Suffice it would be to mention that the

1 Hereinafter referred to as 'NI Act'.

Trial Court convicted the respondent no. 2 for committing offence punishable under section 138 NI Act and was sentence to undergo simple imprisonment for one year and pay a compensation of Rs. 9,00,000/- (Rupees nine lakhs) to the complainant under Section 357 (3) of the Code of Criminal Procedure, 1973. In default of payment of compensation, the respondent no. 2 was directed to undergo simple imprisonment for a further period of one year. This judgment of the Trial Court was affirmed by the Sessions Court against which the respondent no. 2 preferred a Criminal revision before the High Court which has now been decided under the impugned judgment mainly on the ground that the petitioner having extended financial assistance to the tune of Rs. 9,00,000/- (Rupees nine lakhs) by way of cash transaction in violation of provisions of Section 269SS of the Income Tax Act, 1961, the accused can not be held guilty of committing offence under section 138 of the NI Act.

6. It is common ground that the impugned judgment rendered by the Kerala High Court in *P.C. Hari Vs. Shine Varghese & Anr.*: 2025 SCC Online Ker 5535, came up for consideration before this Court in the matter of *Sanjabij Tari Vs. Kishore S.*

**Borcar & Anr.** in Criminal Appeal No. 1755 of 2010, particularly, on the issue as to whether the cash transaction more than Rs 20,000/- (Rupees twenty thousand) is in violation of Section 269SS would render the transaction unenforceable under Section 138 of NI Act.

7. To put the matter straight, we reproduce paragraph Nos. '19; and '20' of this Court's judgment in Sanjabij Tari(supra):-

"19. Recently, the Kerala High Court in **P.C. Hari vs. Shine Varghese & Anr., 2025 SCC OnLine Ker 5535** has taken the view that a debt created by a cash transaction above Rs. 20,000/- (Rupees Twenty Thousand) in violation of the provisions of Section 269SS of the Income Tax Act, 1961 (for short 'IT Act, 1961') is not a 'legally enforceable debt' unless there is a valid explanation for the same, meaning thereby that the presumption under Section 139 of the Act will not be attracted in cash transactions above Rs. 20,000/- (Rupees Twenty Thousand).

20. However, this Court is of the view that any breach of Section 269SS of the IT Act, 1961 is subject to a penalty only under Section 271D of the IT Act, 1961. Further neither Section 269SS nor 271D of the IT Act, 1961 state that any transaction in breach thereof will be illegal, invalid or statutorily void. Therefore, any violation of Section 269SS would not render the transaction unenforceable under Section 138 of the NI Act or rebut the presumptions

under Sections 118 and 139 of the NI Act because such a person, assuming him/her to be the payee/holder in due course, is liable to be visited by a penalty only as prescribed. Consequently, the view that any transaction above Rs.20,000/- (Rupees Twenty Thousand) is illegal and void and therefore does not fall within the definition of 'legally enforceable debt' cannot be countenanced. Accordingly, the conclusion of law in **P.C. Hari** (supra) is set aside."

8. This being the view taken by this Court in Sanjabij Tari(supra) the very foundation of the impugned judgment rendered by the Kerala High Court does not survive as the legal proposition on which the impugned judgment has been rendered, has been set aside.

9. In the above view of the matter, we set aside the impugned judgment of the High Court and remit the matter back to the High Court for consideration afresh on merits as permissible under the revisional jurisdiction.

10. Both the parties shall appear before the High Court on 17.02.2026.

11. The present appeal stands disposed of in the above terms.

12. Pending application(s), if any, shall stand disposed of.

.....J.  
[PRASHANT KUMAR MISHRA]

.....J.  
[VIPUL M. PANCHOLI]

NEW DELHI;  
DECEMBER 08, 2025.  
SD

ITEM NO.59

COURT NO.15

SECTION II-D

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No. 14187/2025

[Arising out of impugned final judgment and order dated 25-07-2025 in CRP No. 408/2024 passed by the High Court of Kerala at Ernakulam]

SHINE VARGHESE KOIPURATHU

Petitioner(s)

VERSUS

STATE OF KERALA &amp; ANR.

Respondent(s)

Date : 08-12-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA  
HON'BLE MR. JUSTICE VIPUL M. PANCHOLI

For Petitioner(s) Mr. P.V. Dinesh, Sr. Adv.  
Mr. Zulfiker Ali P. S, AOR  
Mr. Shiyas Kr, Adv.  
Ms. Anna Oommen, Adv.  
Ms. Lebina Baby, Adv.  
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For Respondent(s) Mr. Nishe Rajen Shonker, AOR  
Mrs. Anu K Joy, Adv.  
Mr. Alim Anvar, Adv.  
Mr. Santhosh K, Adv.  
Mrs. Devika A.L., Adv.

Mr. Sarath S Janardanan, AOR  
Mr. Kk Dheerendrakrishnan, Adv.  
Mrs. Np Asha, Adv.  
Mrs. Vishnupriya P Govind, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

1. Leave granted.
2. The appeal stands disposed of in terms of the signed order which is placed on the file.

**3. Pending application(s), if any, shall stand disposed of.**

**(SNEHA DAS)  
SENIOR PERSONAL ASSISTANT**

**(CHETNA BALOONI)  
COURT MASTER (NSH)**