PAPER PRESENTATION ON

DIVISIONAL JUDICIAL SEMINAR OF RAIPUR DIVISION

26 JULY 2026 (SUNDAY) AT RAIPUR

ON THE SUBJECT

DECRIMILIZATION OF CHEQUE DISHONOR :

AN ADR BASED APPROACH

PRESENTED BY

DISTRICT COURT MAHASAMUND

A Divisional Judicial Seminar &
Refresher Training Program on New Criminal Laws of
All Judicial Officers in Raipur Division
(District Raipur/ Dhamtari/ Baloda- Bazar/Mahasamund)
on 26/07/2026
at Raipur

PAPER PRESENTATION ON

DECRIMILIZATION OF CHEQUE DISHONOR : AN ADR BASED APPROACH

BY
DISTRICT COURT MAHASAMUND

Under Guidance of
Principal District &
Session Judge Mahasamund
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TABLE OF CONTENTS

DECRIMINALIZATION OF CHEQUE DISHONOUR: AN ADR BASED APPROACH

INTRODUCTION

"*Section 138 was meant to deter fraud, not to criminalize every commercial misstep*"

"The proceedings under Section 138 can be said to be a **'civil sheep in a criminal wolf's clothing"** — Hon'ble Supreme Court in P. Mohanraj v. Shah Brothers Ispat Pvt. Ltd.

A cheque is essentially a written instruction issued by one person directing a bank to pay a specific amount to another person on demand. Unlike many other payment instruments, it is directly linked to a banking account and becomes payable whenever it is properly presented. A dishonoured cheque, or bounced or returned cheque, refers to a situation where the issuer's bank refuses to honour the payment. This can happen for various reasons, such as insufficient funds, signature mismatches, or other discrepancies.Section 138 of the Negotiable Instruments Act, 1881 criminalizes cheque dishonor (punishable with imprisonment up to two years and/or fine up to twice the cheque amount), it has led to enormous judicial backlog, with lakhs of cases pending across courts. It is often named as a civil sheep in criminal wolf's clothing.

Decriminalization is the legislative process which removes prosecutions against an action so that the action remains illegal but has no criminal penalties or at most some civil fine. The decriminalization of cheque dishonour —particularly for smaller amounts—has gained significant traction in India as a much-needed policy response to address the mounting challenges under Section 138 of the Negotiable Instruments Act, 1881.

Many of these disputes are essentially civil or commercial in nature —arising from cash-flow issues or delayed payments—rather than deliberate fraud. This over-criminalization has strained the justice delivery system, affected ease of doing business, and imposed undue stigma on drawers.

In this context, an ADR (Alternative Dispute Resolution)-based approach is increasingly advocated as a balanced solution. The framework envisions shifting minor cases to civil remedies with mandatory mediation, conciliation, Lok Adalats, and time-bound recovery, while retaining criminal prosecution for serious, fraudulent, or repeat offences. This reform direction seeks to reduce court burden, expedite recovery for payees, preserve business relationships, and enhance commercial trust without routine criminal trials.

EVOLUTION OF SECTION 138 OF THE NEGOTIABLE INSTRUMENTS ACT

For more than a century after its enactment, the Negotiable Instruments Act did not provide any penal consequences for cheque dishonour. If a cheque was dishonoured due to insufficient funds, the drawer only faced civil liability. This meant that the payee had to approach civil courts for recovery, a process often lengthy and ineffective, undermining the credibility of cheques as instruments of commerce.

As far back as 1975, Justice P.V. Rajamannar had advocated for criminalizing cheque dishonour to strengthen banking efficiency and reliability in an environment dominated by manual operations.
To address this problem, the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988, which introduced Chapter XVII into the Act. The amendment, effective from April 1, 1989, inserted Section 138, criminalising the act of issuing a cheque without sufficient funds or beyond the arrangements made with the bank. The purpose was to strengthen the acceptability of cheques as a substitute for cash and to ensure that drawers were deterred from fraudulent conduct. However, the initial provisions under Sections 138 to 142 proved inadequate in addressing the rising number of cheque dishonour cases.

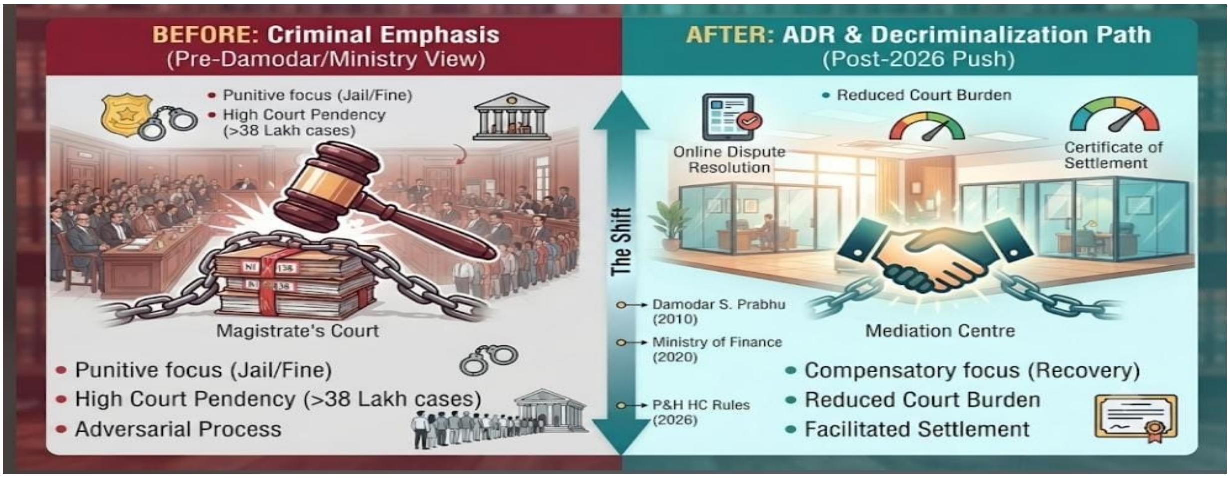
The Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002 (Act 55 of 2002) was passed, effective from February 6, 2003. This amendment inserted Sections 143 to 147, which introduced summary trials to ensure speedy disposal, made offences under Section 138 compoundable, and increased the maximum punishment from one year to two years. These reforms sought to reinforce the credibility of cheques as a reliable mode of payment in everyday business transactions.

The Government, via the On 8th June 2020, the Ministry of Finance through the Department of Financial Services issued a notification under the Statement of Reason titled “Decriminalisation of minor offences for improving Business Sentiment and Unclogging Court Processes proposed to decriminalise various provisions of law which are strikingly different among each other.

The perusal of the notification apprises us that the intention is to not to come up with an idea to combat the possible defaults but to bring more confidence in the market by easing of doing business.

THE CURRENT LANDSCAPE: SECTION 138 NI Act

1. **The "Quasi-Criminal" Nature:** The Hon'ble Supreme Court in multiple cases[1] have pointed out that cases of cheque dishonor are largely civil disputes carrying criminal features and the emphasis, therefore, is not merely on punishment, but on ensuring accountability in financial dealings. The broader legislative purpose behind cheque dishonor law is to preserve confidence in banking transactions and strengthen the reliability of negotiable instruments in trade. Thus, the legal character of such proceedings is best understood as quasi-civil in substance and criminal in procedure, combining deterrence with compensation to support commercial certainty. Further, settlement may be accepted even at the appellate stage.
2. **Judicial Crisis:** As per a written reply by the Ministry of Law and Justice to Lok Sabha Unstarred Question No. 4190 dated 20 December 2024, as many as 43,05,932 cheque dishonour cases were pending across the country.



[1] Kaushalya Devi Massand v. Roopkishore Khore (2011) 4 SCC 593; P. Mohanraj v. Shah Brothers Ispat Pvt. Ltd. (2021) 6 SCC 258; R. Vijayan v. Baby (2012) 1 SCC 260; Goaplast Pvt. Ltd. v. Chico Ursula D'Souza (2003) 3 SCC 232

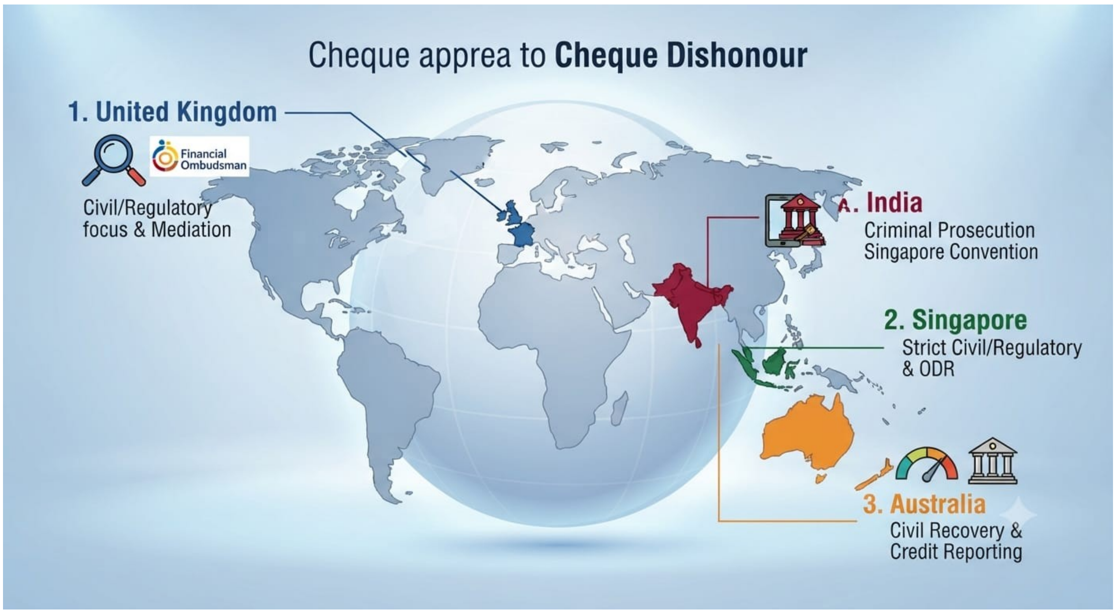
THE NEED FOR DECRIMINALIZATION

The fundamental reason behind the idea to decriminalise the cheque bounce law is to bring more investment in the economy, ease the mechanism of doing business, unclogging the process of courts, and lighten the burden of the courts too. Other reasons include :-

- **Economic Impact:** The fear of criminal prosecution can act as a hurdle for investment, particularly for MSMEs, as legitimate business errors may be unfairly stigmatized as criminal conduct. Cheque transactions as a share of overall payments has dropped dramatically highlighting a profound evolution in commercial payment practices.
- **Regulatory Focus:** Proponents argue that the state should reserve criminal law for cases involving *mens rea* (fraudulent intent) or habitual offenders, while treating standard dishonour cases as regulatory or civil wrongs.
- **Global Precedent:** Several jurisdictions, including the UK, USA, Singapore, and Turkey, treat ordinary cheque dishonour primarily as a civil liability.
- **Nature of offence:** The Supreme Court has noted that Section 138 primarily addresses a civil wrong, and for smaller amounts, decriminalization may be considered, leaving such matters to civil jurisdiction.
- **Judicial efficiency:** Treating minor defaults as civil disputes enables faster resolution through summary recovery, conciliation, mediation, or arbitration, instead of full criminal trials.

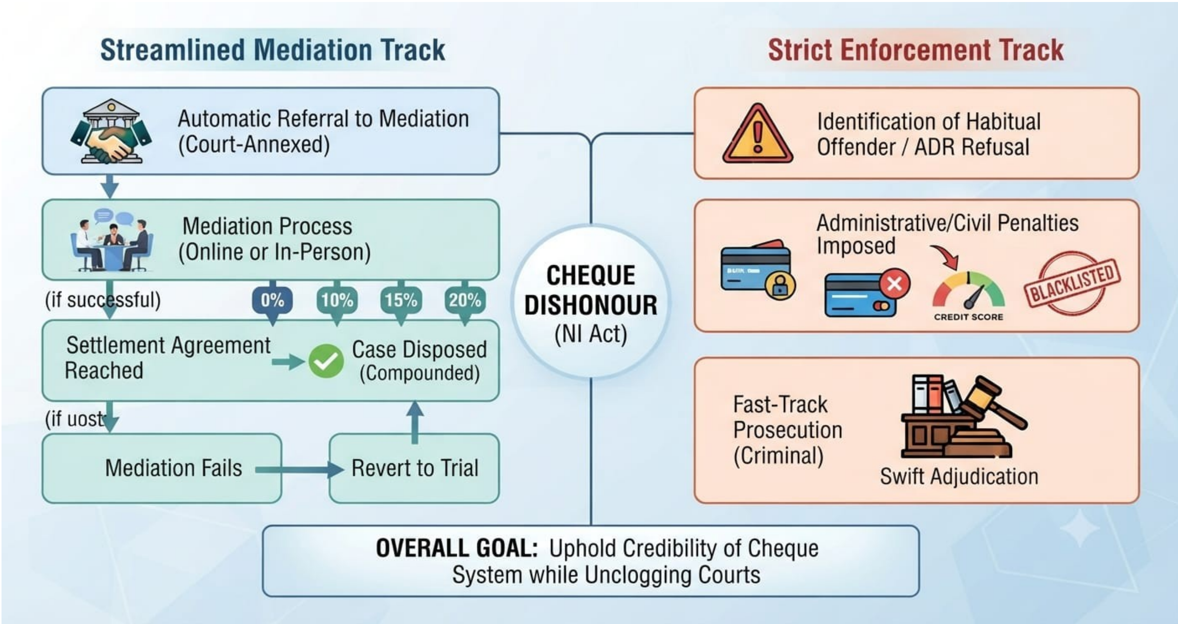
● **Ease of doing business:** A civil/ADR route reduces the stigma and harshness of criminal proceedings for unintentional or liquidity-driven defaults, while still ensuring enforceable recovery. The jail term hurts business sentiment; therefore the removal of the same will create positive business culture.

The chances of imprisonment in the offences that aren't always fraudulent bring hurdles in attracting investments. Therefore, the act of decriminalising the cheque bounce law will make the investors feel confident.



THE ADR - BASED APPROACH

An ADR-centric framework aims to shift the focus from punitive measures to the recovery of funds.



Mechanisms for Resolution:

- **Pre-Litigation Mediation:** A mandatory period for parties to negotiate repayment schedules before a suit is filed.
- **Lok Adalats:** Utilizing these "people's courts" for binding, compromise-based settlements; cheque bounce cases are already the most successfully settled category in this forum.
- **Arbitration:** Integrating arbitration clauses into commercial contracts to resolve disputes outside traditional courtrooms.

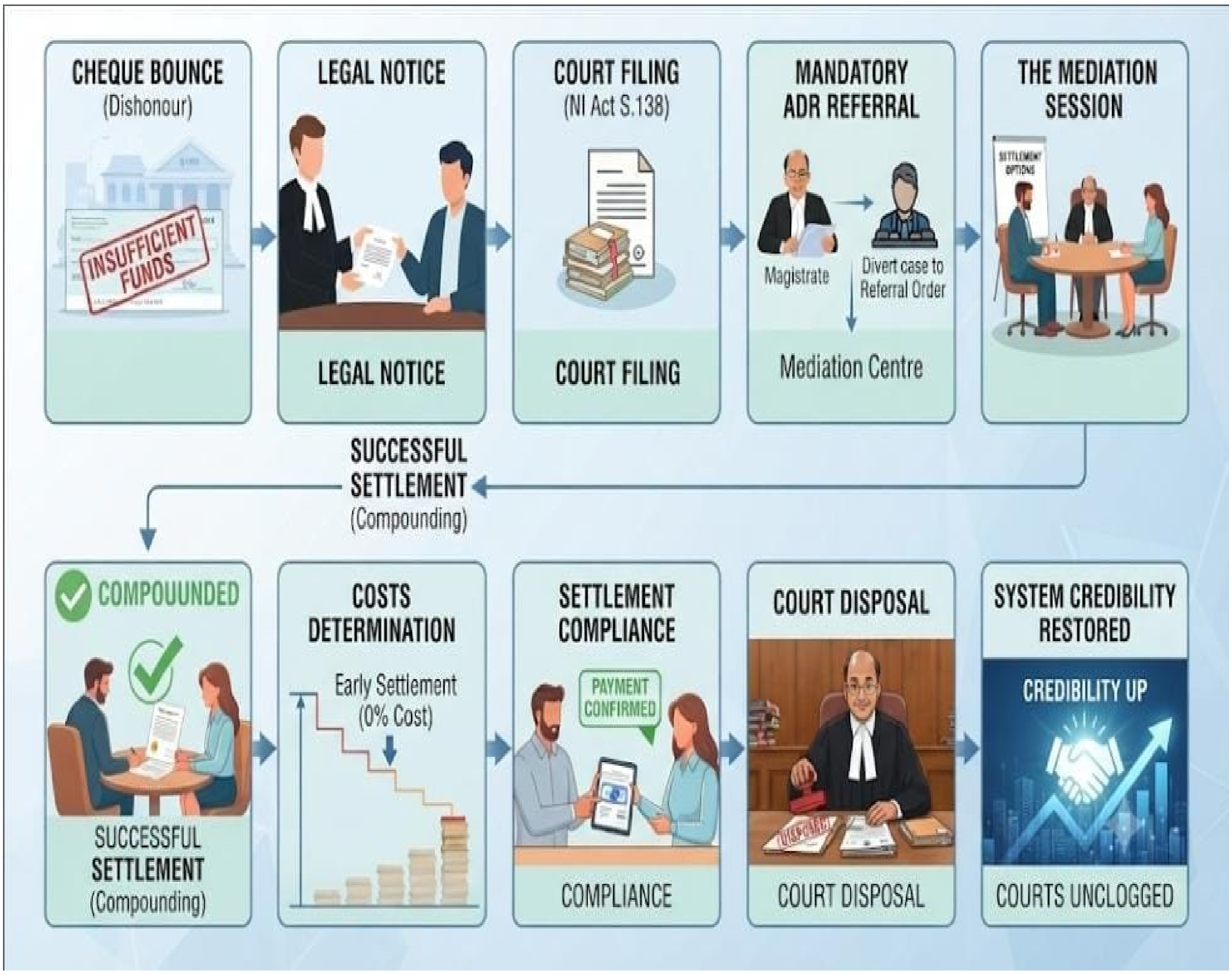
HOW ADR HELPS IN PRACTICE

ADR can be a less expensive alternative to litigation for resolving disputes relating to cheque dishonouring. This is especially important in cases involving criminal dishonour of cheques, where the value of the cheque may not be particularly large but legal fees and expenses can rapidly accumulate. Next, ADR can often result in a quicker resolution than the justice system, which can be a protracted process due to the court's procedural rules, the amount of information to be analysed, and the complexities of the cases. In addition, ADR proceedings are generally confidential, which can be advantageous in situations where privacy is essential. A key reason to consider ADR is that it gives the parties involved greater control over the dispute resolution process and its outcome. This is particularly important if the parties wish to negotiate a settlement that takes into account factors other than the monetary amount of the cheque. ADR can also help preserve relationships between the parties, which can be crucial in cases involving criminal dishonour of cheques where the parties may have ongoing business or personal ties.

- **Mediation/conciliation:** Parties can negotiate repayment schedules, settlements, or compromise amounts without a full trial, preserving business relationships.

- **Arbitration:** If parties have an arbitration clause or agree to arbitrate, the dispute can be resolved by a private arbitrator with enforceable awards.

- **Lok Adalats & fast-track settlement:** Many High Courts and District Legal Services Authorities actively promote settlement of cheque-bounce cases through Lok Adalats, reducing pendency.



STAND OF THE JUDICIARY

Section 138 of the Negotiable Instruments Act addresses cheque dishonour and was designed to protect commercial trust, but its widespread criminal use has produced heavy court backlogs and often treats compensatory commercial defaults as crimes . The **Honourable Supreme Court** has repeatedly emphasized speed, settlement, and compounding in cheque-bounce matters—most recently in **Sanjabij Tari v. Kishore S. Borcar and earlier in Damodar S. Prabhu v. Sayed Babalal H.,** where the Court promoted **compounding and civil-resolution** mechanisms for many cases . An ADR-centred civil-remedy track for lower-value or non-fraudulent cheque dishonour can accelerate recovery, preserve commercial relationships, and conserve criminal justice resources .

In Goa Plast (P) Ltd. v. Chico Ursula D'Souza[xii] the Hon'ble Supreme Court has observed that the object of the statute was to facilitate smooth functioning of the business transactions. The provision is necessary as in many transactions as the cheques were issued merely as a device to defraud the creditors. Dishonour of the cheque causes incalculable loss, injury and inconvenience to the payee and credibility of business transactions suffers a setback.

On the other occasion, the Hon'ble Supreme Court in the case of Dilip S. Dhanukar vs. Kotak Mahindra Co. Ltd. and Ors.[xiii] had stated that the punishment/ prosecution in 138 cases provides deterrence, but the same cannot be used as a measure of persecution.

THE GUIDELINES:-

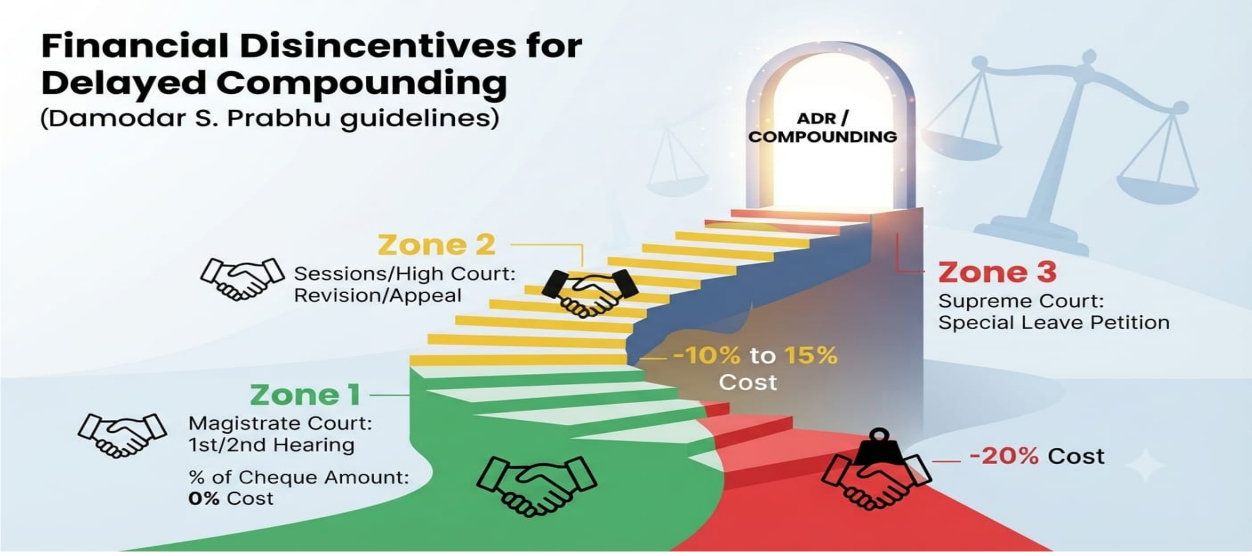
1. The Honourable Supreme Court in ***Damodar S. Prabhu v. Sayed Babalal H***, has emphasized that in Section 138 cases, compensatory justice should take priority over the punitive aspect, and early compounding should be actively encouraged.

(a) **Modification in writ of summons:-** That directions can be given that the **Writ of Summons** be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) **Application at subsequent stage**-If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.

(c) **Application before Sessions Court or High Court-** if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) **Application before Supreme Court-** Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.



2. Sanjabji Tari vs. Kishore S. Borcar, Criminal Appeal No. 1755 of 2010, decided on 25 September 2025)(Paras 37–38)

The Court **revisited Damodar S. Prabhu guidelines** due to high pendency and lower interest rates:

- Before defence evidence: Compounding allowed without any cost/penalty.
- After defence evidence but before judgment: Additional 5% of cheque amount.
- Before Sessions/High Court (Revision/Appeal): 7.5% as costs.
- Before Supreme Court: 10% of cheque amount.

Sanjabji Tari vs. Kishore S. Borcar, Criminal Appeal No. 1755 of 2010, decided on 25 September 2025) has issued comprehensive directions/guidelines to address the massive backlog of Section 138 NI Act (cheque dishonour) cases, expedite proceedings, promote early settlements, and reinforce the presumptions under Sections 118 and 139 of the NI Act.

Key Guidelines / Directions (from Para 36)

1. **Online Payment / Settlement Facility**

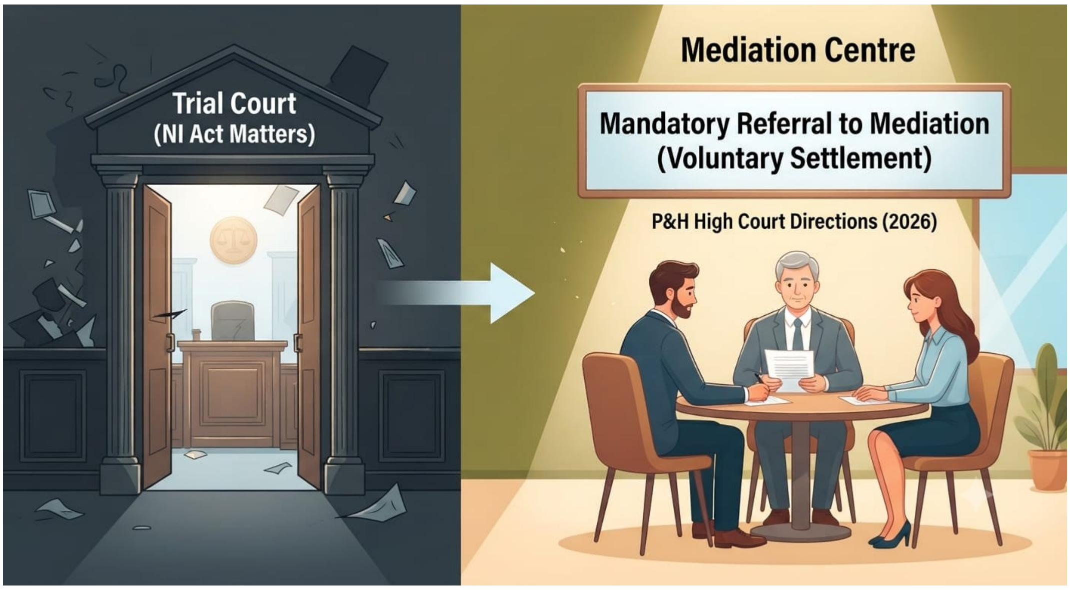
Principal District & Sessions Judges must create dedicated QR code/UPI links for immediate payment of cheque amount.Summons must mention this option. Early payment enables compounding/closure.

B.Interim Compensation

Courts should use Section 143A NI Act powers for interim deposit where appropriate, as early as possible.

C. Dashboard & Monitoring

Dedicated dashboards in Delhi, Mumbai, Calcutta for pendency, disposal, settlements, adjournments, etc.Monthly reviews by District Judges; quarterly reports to High Court.



ARGUMENTS IN FAVOUR OF DECRIMILIZATION

1. **Judicial burden:** Strongly supported. Section 138 cases constitute a massive share of pendency — historically 35–40+ lakh cases (often 15–20%+ of criminal cases in lower courts/magistrates). Each requires a separate complaint, contributing to delays. Shifting to civil remedies (e.g., summary suits under Order 37 CPC) could focus on compensation rather than punishment, freeing resources.
2. **Alignment with cashless/digital economy:** Partially valid. India has aggressively promoted digital payments (UPI, etc.), and cheque usage has declined sharply. However, cheques (especially post-dated) remain relevant in business credit, lending, and certain sectors. Decriminalization might reduce "fear" but could also erode trust if not paired with strong civil enforcement.
3. **Adressing Overcriminilization:** The concept of overcriminalization refers to the proliferation of laws with criminal penalties for even trivial matters Decriminalisation corrects this imbalance by restricting criminal sanctions to serious misconduct while using regulatory and financial penalties for lesser offences

ARGUMENTS AGAINST DECRIMILIZATION

1) Erosion of credibility and deterrence: The aim to decriminalise the cheque bounce law will surely put the credibility of cheque in doubt. One of the main reasons behind the large acceptance of cheque is that the payer is always under the threat of facing prosecution if the cheque fails to get cleared. But if the deterrence gets removed by the proposed decimalization, then the credibility of cheque will surely take a new hit and the same will cause a negative impact on the economy. This sentiment

   is widely echoed by opponents (Bar Councils, traders' bodies like CAIT, banks). The criminal threat (imprisonment up to 2 years + fine) encourages timely payment and settlements. Removing it might increase defaults, as the "fear factor" drives compliance and out-of-court resolutions. Cheques could lose reliability as a negotiable instrument.
2) Discouraging cheque use: Plausible concern. While digital is rising, weakening cheques could push parties toward alternatives or increase risk aversion in trade.
3) No legal burden leading to more bad cheques: A common criticism — decriminalization might signal lower consequences, harming honest creditors (especially SMEs, employees) who rely on post-dated cheques for security. Additionally, the possibility of imprisonment is an important factor behind the success and popularity of 138 cases. But if the accused persons have no fear of facing harsh punishment,

then it will lose its grip and ultimately bring more roadblocks in the way of recovery from the accused persons.

4) Decrimininalization doesn’t touch the fundamental problem of long litigations and therefore even if such cases get decriminalized, the 138 trial cases are not guaranteed to get expeditious.

SUGGESTIONS FOR DECRIMINALIZATION OF CHEQUE DISHONOUR : AN ADR-BASED APPROACH

1. Adopt a Decriminalization Framework-Decriminalization should be introduced as a legislative reform that removes criminal prosecution for cheque dishonour (especially for smaller amounts), while keeping the act as a civil wrong. This would replace criminal penalties with civil remedies such as fines, interest, and recovery mechanisms, coming into force from a specified date.

2. Shift from Criminal to Civil Liability-The liability arising out of a dishonoured cheque should primarily be determined on the principles of civil liability rather than criminal liability. While criminal protection has historically provided dual benefits (property rights protection and recovery rights), the current approach has led to over-criminalization. A civil-centric model better suits the commercial nature of most defaults.

3. Recognize Cheques as Instruments of Payment, Not Credit

Legislative and judicial measures should discourage the misuse of cheques as credit instruments (e.g., frequent issuance of post-dated cheques). This practice undermines the negotiable character of cheques as a reliable means of payment equivalent to cash.

4. Limit Criminal Liability to Serious Cases-Criminal proceedings under Section 138 of the NI Act should be retained only for cases involving fraudulent intent, repeat offenders, or high-value transactions. For smaller amounts(below 2 lakh rupees) jurisdiction should be shifted to civil courts.

5. Empower Civil Courts for Small-Value Cases-Civil courts should be given jurisdiction to adjudicate cheque dishonour cases involving smaller amounts. This will help reduce the burden on criminal courts, minimize frivolous litigation (due to court fees and other civil procedural safeguards), and allow for faster, more proportionate resolution.

Civil systems abroad provide robust recovery processes, ensuring that dishonoured cheque holders can enforce their rights efficiently. India could strengthen civil remedies, perhaps by introducing summary civil procedures for chequerelated debts, thereby ensuring faster resolution. Making civil judgments more enforceable would reassure payees without resorting to criminal prosecutions.

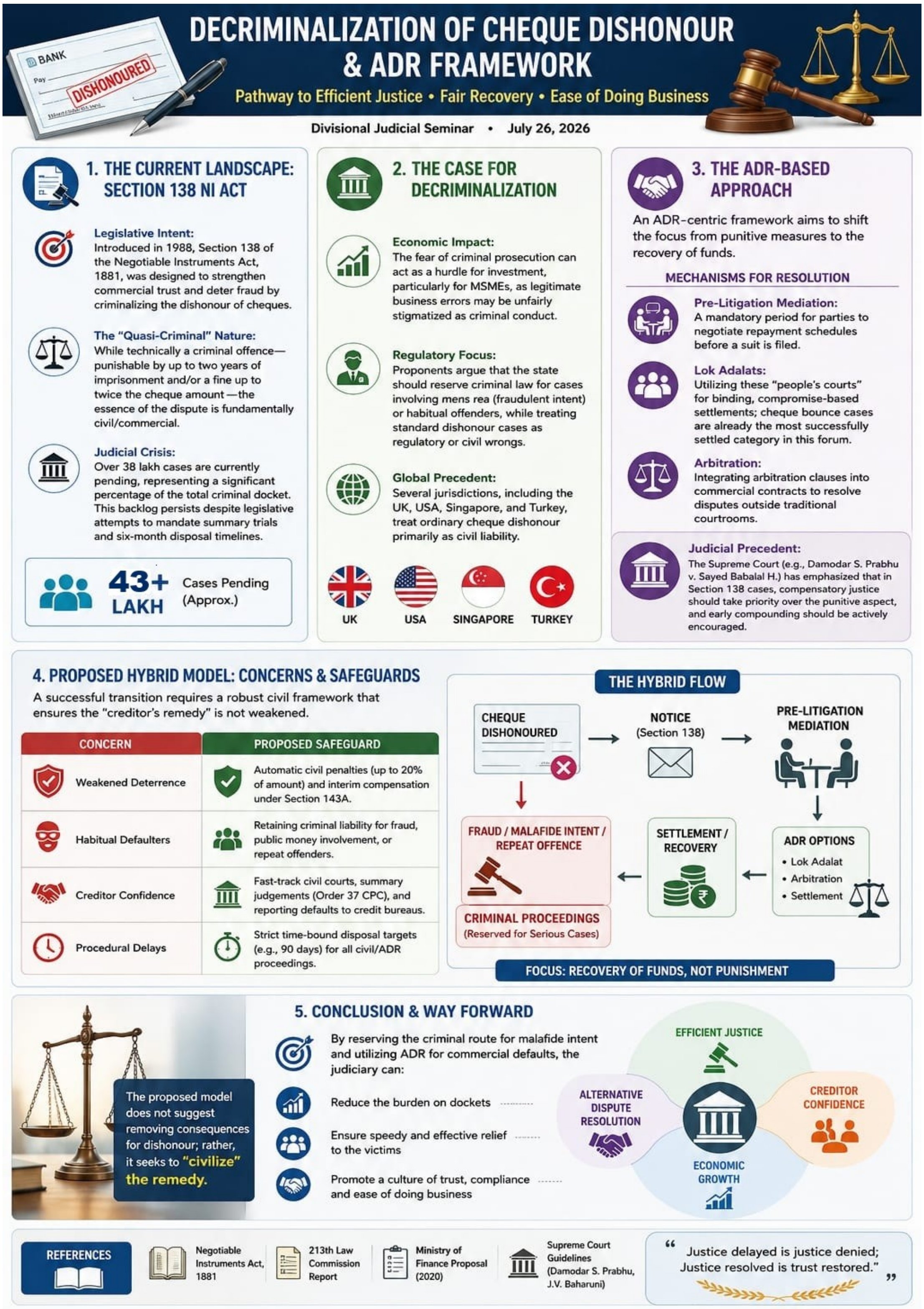
7. Integrate ADR Mechanisms-Mandatory pre-litigation mediation, conciliation, Lok Adalats, and arbitration should be incorporated into the reformed framework to encourage early settlements, preserve business relationships, and ensure time-bound recovery.

Establish dedicated mediation centres for cheque dishonour disputes in districts with high case volumes. These centres should be managed by trained mediators in commercial matters and operate under the supervision of legal services authorities.

Develop an integrated online platform enabling parties to participate in mediation and complete payments digitally (via UPI/NEFT), allowing immediate settlement and reducing procedural delays.

8. Ensure Balanced Retroactive Application (Where Feasible)- The reform may be applied retroactively to pending cases of minor value, with appropriate safeguards, to effectively reduce the existing judicial backlog.

9. Focus on Banking System Penalties: India could also look beyond the courtroom. In Cyprus, for example, the Central Bank maintains a database of individuals who issue dishonoured cheques, imposing administrative restrictions like bans on cheque issuance. In Japan, a strict "two-strike" rule is followed, whereby an account holder who issues two dishonoured cheques within a short period faces suspension of banking facilities for a substantial duration. For corporate entities, such restrictions can have severe commercial consequences, including suspension of trading activities. In France, regulatory control is exercised through a centralised database that records instances of cheque dishonour. Individuals who repeatedly default may be prohibited from issuing cheques for a defined period, effectively restricting their participation in cheque-based transactions. Similarly, Malaysia adopts a structured banking response, where repeated instances of dishonoured cheques lead to blacklisting through the national credit system, resulting in closure of accounts across banks. Similar banking level penalties, such as temporary account suspensions or blacklisting repeat offenders, could act as strong deterrents in India without burdening the judiciary.



BANK
Pay
DISHONOURED
DECRIMINALIZATION OF CHEQUE DISHONOUR & ADR FRAMEWORK
Pathway to Efficient Justice • Fair Recovery • Ease of Doing Business
Divisional Judicial Seminar • July 26, 2026
1. THE CURRENT LANDSCAPE: SECTION 138 NI ACT
Legislative Intent:
Introduced in 1988, Section 138 of the Negotiable Instruments Act, 1881, was designed to strengthen commercial trust and deter fraud by criminalizing the dishonour of cheques.
The "Quasi-Criminal" Nature:
While technically a criminal offence—punishable by up to two years of imprisonment and/or a fine up to twice the cheque amount—the essence of the dispute is fundamentally civil/commercial.
Judicial Crisis:
Over 38 lakh cases are currently pending, representing a significant percentage of the total criminal docket. This backlog persists despite legislative attempts to mandate summary trials and six-month disposal timelines.
43+ LAKH
Cases Pending (Approx.)
2. THE CASE FOR DECRIMINALIZATION
Economic Impact:
The fear of criminal prosecution can act as a hurdle for investment, particularly for MSMEs, as legitimate business errors may be unfairly stigmatized as criminal conduct.
Regulatory Focus:
Proponents argue that the state should reserve criminal law for cases involving mens rea (fraudulent intent) or habitual offenders, while treating standard dishonour cases as regulatory or civil wrongs.
Global Precedent:
Several jurisdictions, including the UK, USA, Singapore, and Turkey, treat ordinary cheque dishonour primarily as civil liability.
UK
USA
SINGAPORE
TURKEY
3. THE ADR-BASED APPROACH
An ADR-centric framework aims to shift the focus from punitive measures to the recovery of funds.
MECHANISMS FOR RESOLUTION
Pre-Litigation Mediation:
A mandatory period for parties to negotiate repayment schedules before a suit is filed.
Lok Adalats:
Utilizing these "people's courts" for binding, compromise-based settlements; cheque bounce cases are already the most successfully settled category in this forum.
Arbitration:
Integrating arbitration clauses into commercial contracts to resolve disputes outside traditional courtrooms.
Judicial Precedent:
The Supreme Court (e.g., Damodar S. Prabhu v. Sayed Babalal H.) has emphasized that in Section 138 cases, compensatory justice should take priority over the punitive aspect, and early compounding should be actively encouraged.
4. PROPOSED HYBRID MODEL: CONCERNS & SAFEGUARDS
A successful transition requires a robust civil framework that ensures the "creditor's remedy" is not weakened.
CONCERN
PROPOSED SAFEGUARD
Weakened Deterrence
Automatic civil penalties (up to 20% of amount) and interim compensation under Section 143A.
Habitual Defaulters
Retaining criminal liability for fraud, public money involvement, or repeat offenders.
Creditor Confidence
Fast-track civil courts, summary judgements (Order 37 CPC), and reporting defaults to credit bureaus.
Procedural Delays
Strict time-bound disposal targets (e.g., 90 days) for all civil/ADR proceedings.
THE HYBRID FLOW
CHEQUE DISHONOURED
NOTICE (Section 138)
PRE-LITIGATION MEDIATION
ADR OPTIONS
• Lok Adalat
• Arbitration
• Settlement
SETTLEMENT / RECOVERY
FRAUD / MALAFIDE INTENT / REPEAT OFFENCE
CRIMINAL PROCEEDINGS (Reserved for Serious Cases)
FOCUS: RECOVERY OF FUNDS, NOT PUNISHMENT
The proposed model does not suggest removing consequences for dishonour; rather, it seeks to "civilize" the remedy.
5. CONCLUSION & WAY FORWARD
By reserving the criminal route for malafide intent and utilizing ADR for commercial defaults, the judiciary can:
Reduce the burden on dockets
Ensure speedy and effective relief to the victims
Promote a culture of trust, compliance and ease of doing business
EFFICIENT JUSTICE
ALTERNATIVE DISPUTE RESOLUTION
CREDITOR CONFIDENCE
ECONOMIC GROWTH
REFERENCES
Negotiable Instruments Act, 1881
213th Law Commission Report
Ministry of Finance Proposal (2020)
Supreme Court Guidelines (Damodar S. Prabhu, J.V. Baharuni)
"Justice delayed is justice denied; Justice resolved is trust restored."

CONCLUSION

In conclusion, decriminalizing the offence of cheque dishonour has its pros and cons. The future of Section 138 does not lie in choosing between deterrence and settlement, it lies in sequencing them intelligently. Criminal liability must remain the law's ultimate sanction, reserved for those who dishonour cheques with deliberate intent and refuse all reasonable settlement. But for the vast majority of cases, where the drawer is willing to pay, the complainant needs recovery, and both parties would prefer to avoid years of litigation, the criminal trial is an unnecessarily blunt and expensive instrument. Mediation offers a sharper, faster, and more humane alternative that serves the same compensatory objective at a fraction of the systemic cost. The proposed model does not suggest removing consequences for dishonour; rather, it seeks to "civilize" the remedy. By reserving the criminal route for *malafide* intent and utilizing ADR for commercial defaults, the judiciary can reduce the burden on dockets while ensuring that victims receive effective and timely relief.

The most persuasive reform is not full abolition of criminal liability, but a calibrated shift from punishment-centered adjudication to settlement centered enforcement . Section 138 should remain available for deliberate or repeated wrongdoing, yet ordinary cheque dishonour disputes should be resolved through ADR and civil recovery wherever possible .

REFERENCES

1. Negotiable Instruments Act, 1881 – Section 138, 143, 143A
2. 213th Law Commission Report, 2008
3. Ministry of Finance Proposal dated 8 June 2020
4. Journal of Legal Research and Juridical Sciences – Decriminalizing Dishonour.
5. Kaushalya Devi Massand v. Roopkishore Khore (2011) 4 SCC 593.
6. P. Mohanraj v. Shah Brothers Ispat Pvt. Ltd. (2021) 6 SCC 258.
7. R. Vijayan v. Baby (2012) 1 SCC 260.
8. Goaplast Pvt. Ltd. v. Chico Ursula D'Souza (2003) 3 SCC 232.
9. Damodar S Prabhu V. Sayed Babalal H 2010 SC 1907.