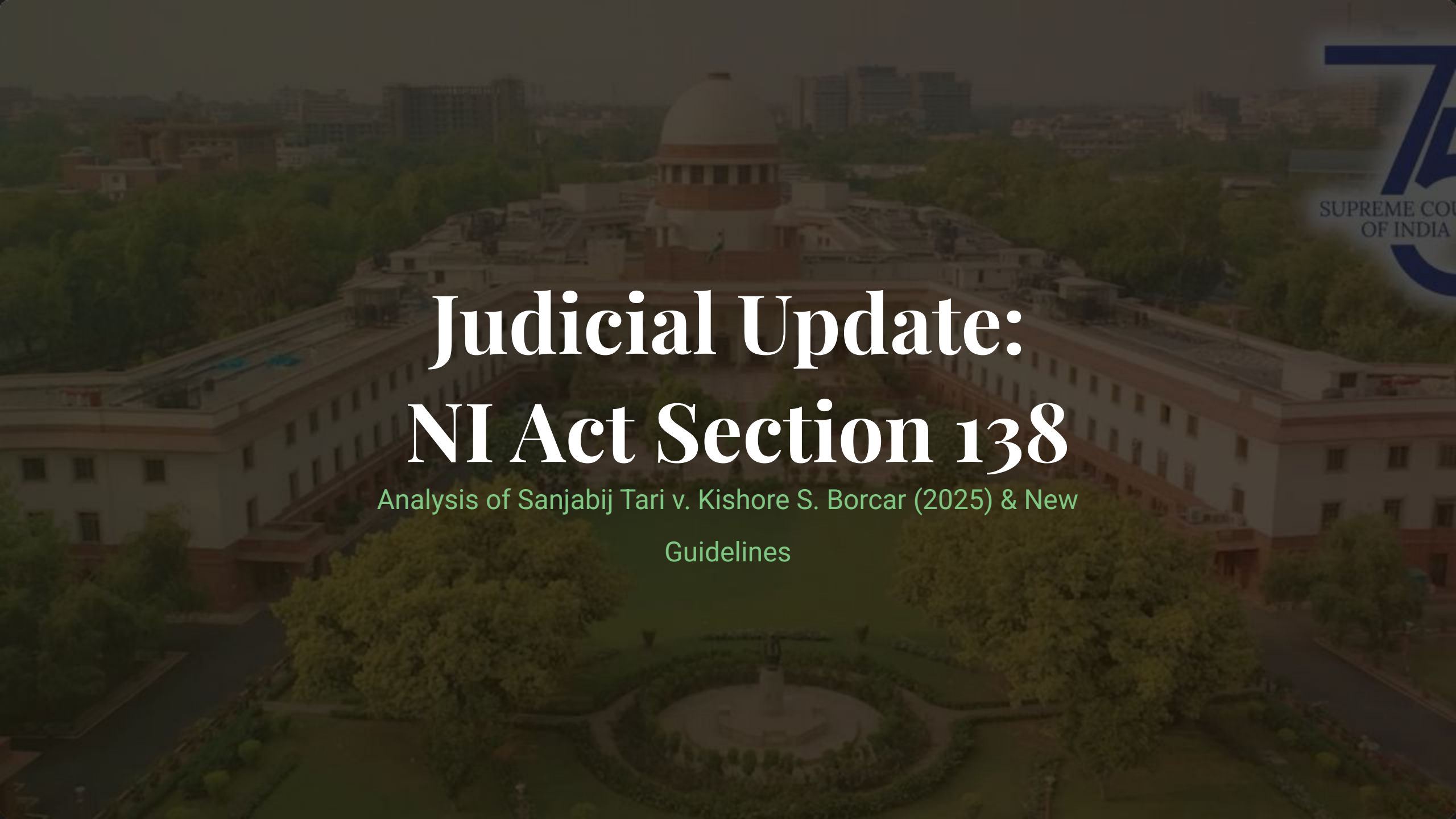


Judicial Update: NI Act Section 138

Analysis of Sanjabij Tari v. Kishore S. Borcar (2025) & New Guidelines

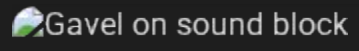
Case Overview

Sanjabij Tari vs. Kishore S. Borcar & Anr.

Citation: 2025 INSC 1158

This landmark judgment sets aside the acquittal granted by the High Court of Bombay at Goa. It reinforces the statutory presumptions under the Negotiable Instruments Act and issues critical administrative guidelines to tackle judicial backlog.

Core Issue: Dishonour of a cheque amounting to ₹6,00,000 and the subsequent legal battle over "legally enforceable debt".



Key Arguments & Defence

The Appellant (Complainant)

Argued that the cheque was issued for a legally enforceable debt (friendly loan). The funds were arranged through personal loans and family sources. Emphasized that the Accused had admitted his signature on the instrument, thereby triggering statutory presumptions.

The Respondent (Accused)

Challenged the financial capacity of the Complainant, citing his low salary of ₹2,300/month.

Claimed a "blank cheque" was given merely to enable the Complainant to secure a bank loan, not for discharge of debt.

SC Reasoning: Statutory Presumptions



Admitted Signature

Once the execution of the cheque is admitted, presumptions under Section 118 (Consideration) and Section 139 (Legally Enforceable Debt) automatically arise against the accused.



Rebuttable Onus

The onus is on the accused to rebut this presumption with cogent evidence. Mere denial of financial capacity without proof is insufficient to shift the burden back to the complainant.



Revisional Limits

The High Court erred in exercising revisional jurisdiction to upset concurrent factual findings of lower courts without any evidence of perversity in the judgments.

Cash Loans > ₹20,000

The Supreme Court clarified a critical point of law regarding cash transactions.

It ruled that a violation of **Section 269SS of the Income Tax Act** (accepting loans in cash over ₹20,000) attracts a penalty under the Tax Act but does **not** render the underlying debt "unenforceable" or void under the Negotiable Instruments Act.
This explicitly overrules the contrary view held in *P.C. Hari vs. Shine Varghese*.



The Context: Judicial Backlog

6.5L+

Pending Cases in Delhi

System under Strain

The Court highlighted the staggering pendency of Section 138 cases, which constitute nearly 50% of trial court cases in some states.

Judicial Intent: The punishment under the NI Act is not meant for retribution but to ensure the credibility of cheques as a trustworthy substitute for cash.

New Guidelines: Service of Summons



Dasti Service

Service of summons shall not be confined to usual modes. Dasti service (personal service by complainant) is now mandatory in addition to standard processes.



Digital Service

Trial courts must resort to service via electronic means, including Email and WhatsApp/Messaging apps, as per BNSS rules.



Affidavit

The complainant must file an affidavit of service verifying the correctness of the accused's digital contact details.

Guideline C: Digital Payments

Direct Settlement Links

To facilitate expeditious settlement, District Courts must create and operationalize dedicated **QR Codes** or **UPI links**.

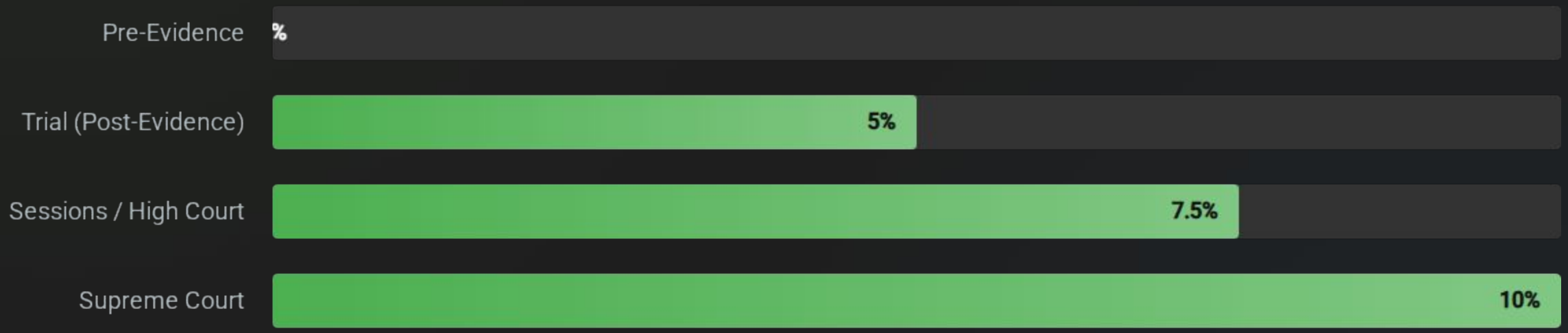
Summons must expressly inform the accused of the option to pay the cheque amount directly via these digital links at the initial stage to close proceedings immediately.



Procedural Reform Guidelines

- **Mandatory Synopsis:** A structured synopsis containing case details (Cheque No., Dates, Parties) must be filed with every complaint.
- **Pre-Cognizance Summons:** The Court clarified that under Section 223 of BNSS, there is **no requirement** to issue summons to the accused *before* taking cognizance in NI Act cases.
- **Summary Trial:** Trial Courts must record cogent reasons before converting a summary trial into a summons trial. Specific questions under Sec 251 CrPC/274 BNSS are recommended.

Revised Compounding Costs



Cost imposed on the accused (as % of cheque amount) for compounding the offence at various stages of litigation.

Administrative Directions



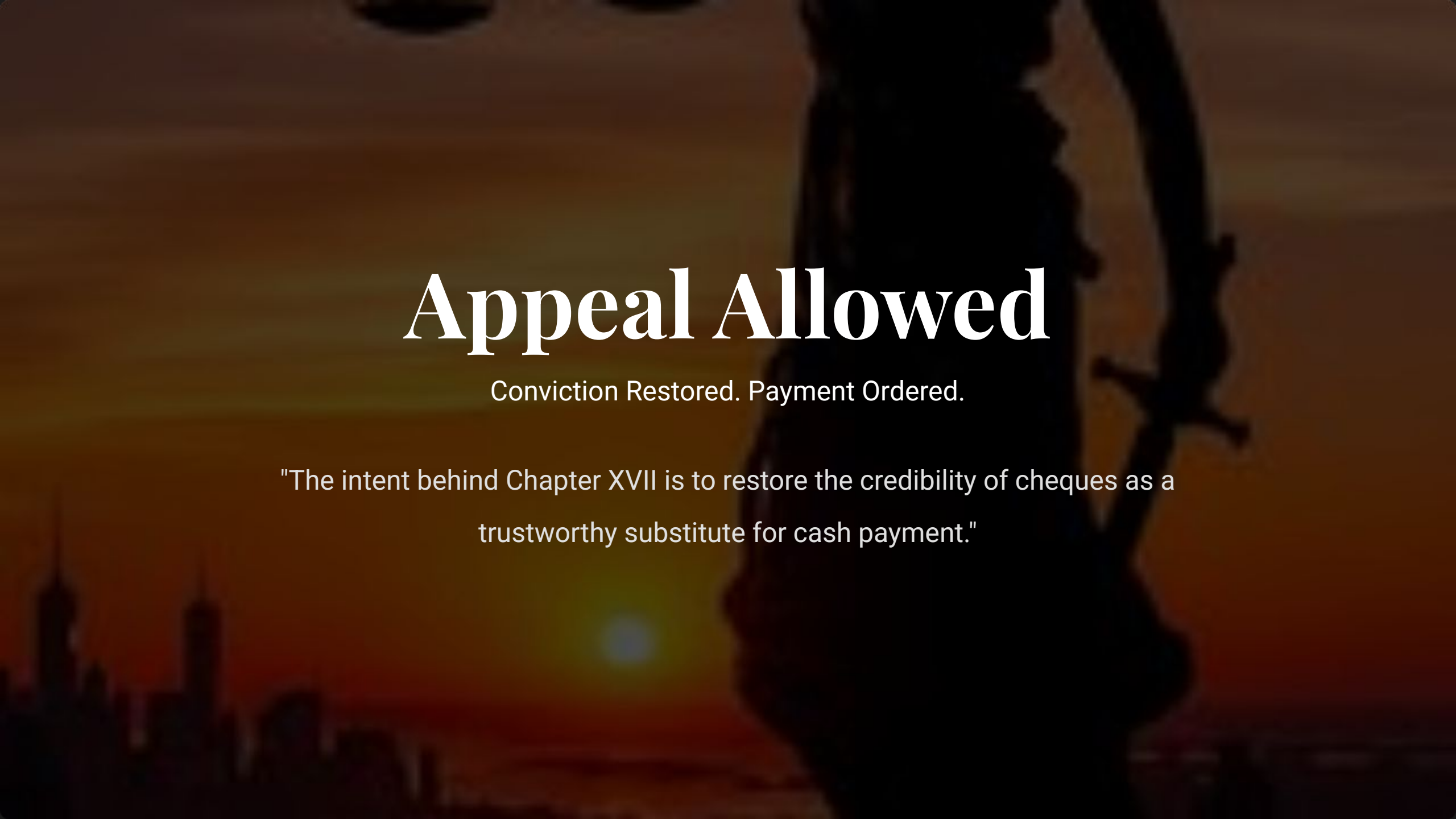
Physical Courts: After service of summons, matters should be placed before physical courts to encourage interaction and settlement.

Gavel

Evening Courts: High Courts must set realistic pecuniary benchmarks for cases to be heard in Evening Courts.



Monitoring: District Judges in major metros must maintain dashboards to track pendency and conduct monthly reviews.



Appeal Allowed

Conviction Restored. Payment Ordered.

"The intent behind Chapter XVII is to restore the credibility of cheques as a trustworthy substitute for cash payment."