



2025:DHC:9438



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 28.10.2025*+ **CRL.M.C. 1412/2025 & CRL.M.A. 6248/2025**

ARCHANA CHAUDHARY

.....Petitioner

Through: Mr. Mohammad Ziauddin,
Adv. (through VC)

versus

HARSH DAWAR

.....Respondent

Through: Mr. Kamlesh Jha, Advocate
(through Video-conferencing)**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J. (Oral)**

1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [hereafter 'BNSS'] has been filed on behalf of the petitioner, seeking setting aside of the order dated 10.12.2024 [hereafter '*impugned order*'] passed by the learned JMFC, NI Act-06, Central District, Tis Hazari Courts, Delhi [hereafter '*Trial Court*'] in CC No. 532014/2016 titled 'Archana Chaudhary v. Harsh Dawar'.

2. As per the complaint filed by the petitioner-complainant under Section 138 of the Negotiable Instruments Act, 1881 [hereafter '*NI Act*'] it was alleged that the complainant and the respondent-accused



were on friendly terms, and during the course of their acquaintance, the accused had borrowed a sum of ₹5,00,000/- from the complainant. It was stated that the said amount was advanced by the complainant after being satisfied about the genuineness of the accused's financial need. For repayment of the aforesaid amount, the accused had issued a cheque bearing No. 298683 dated 08.12.2014 for ₹5,00,000/-, drawn on Punjab National Bank, Vijay Nagar, Delhi, in favour of the complainant, assuring that the same would be duly honoured upon presentation. However, when the complainant presented the said cheque for encashment through his bank, Punjab National Bank, Mall Road Branch, Delhi, the cheque was returned dishonoured vide memo dated 17.12.2014 with the remarks "insufficient funds." It was further alleged that upon the dishonour of the cheque, the complainant approached the accused several times requesting repayment of the amount, but the accused avoided payment on various pretexts. Thereafter, the complainant, through his counsel, issued a legal notice dated 23.12.2014 calling upon the accused to make payment of the cheque amount within fifteen days of receipt of the notice. Despite due service of the said notice, the accused failed to make the payment, thereby committing the offence punishable under Sections 138 and 142 of the NI Act.

3. The respondent–accused was summoned *vide* order dated 31.01.2015, and notice under Section 251 of Cr.P.C. was framed against him on 27.06.2015, to which he pleaded not guilty and claimed trial. Thereafter, the accused filed an application under



Section 145(2) of the NI Act, which was allowed *vide* order dated 11.07.2016, granting him the opportunity to cross-examine the complainant. The matter was first fixed for the cross-examination of the petitioner–complainant on 24.10.2016. The complainant was partly cross-examined only on 09.12.2019, after which the cross-examination was deferred. Subsequently, on 18.04.2023, the further opportunity for cross-examination of the complainant was closed. In April 2024, the petitioner moved an application under Section 311 of Cr.P.C. seeking recall for further cross-examination; however, the said application was dismissed by the learned Trial Court *vide* impugned order dated 10.12.2024.

4. The learned counsel appearing for the petitioner submits that after the closure of further cross-examination on 18.04.2023, the matter was listed before the learned Trial Court for 22.07.2023. It is stated that on 03.02.2024, the complainant engaged a new counsel, who appeared before the Court, and the matter was adjourned to 05.08.2024. It was only on 03.02.2024 that the complainant came to know that her opportunity for further cross-examination had been closed. It is submitted that on 18.04.2023, the complainant had requested her previous counsel to appear before the learned Trial Court, but the said counsel failed to do so and did not even inform the complainant about the passing of the said order. It is thus contended that the impugned order is arbitrary, unjust, and passed without considering the peculiar circumstances of the case. Accordingly, it is prayed that the impugned order be set aside in the interest of justice.



5. Conversely, the learned counsel appearing for the respondent–accused submits that the impugned order suffers from no infirmity, as the learned Trial Court has rightly taken into account the conduct of the complainant, who had failed to appear and cooperate with the proceedings despite being granted ample opportunities over several years. It is therefore urged that the present petition deserves to be dismissed.

6. This Court has **heard** arguments addressed on behalf of the petitioner as well as the respondent, and has perused the case file.

7. The impugned order reflects that the learned Trial Court, through a detailed and reasoned order, has duly taken note of the conduct of the petitioner–complainant. It is the case of the complainant that she came to know only on 03.02.2024 that her right to lead complainant’s evidence (CE) had been closed by the learned Trial Court on 18.04.2023. The record shows that the matter had been pending at the stage of complainant’s evidence since 24.10.2016. *Vide* a detailed order dated 09.12.2019, the cross-examination of the complainant was deferred to enable her to place on record certain additional documents. However, on 18.02.2020, since she failed to file the said documents, the matter was adjourned to 29.09.2020. In view of the COVID-19 pandemic, the proceedings were further adjourned. The complainant once again sought time to place the documents on record but failed to do so, leading to another adjournment on 27.10.2020.



8. Though the complainant filed certain documents on 22.01.2021, the same were found to be deficient. Even thereafter, the bank statements filed were illegible, and the decree of divorce placed on record was only a photocopy. Accordingly, she was directed to file proper and legible documents. However, till 11.05.2022, she could not place complete documents on record, and the matter continued to be adjourned.

9. On 22.09.2022, the complainant was partly cross-examined, but she remained absent on 18.04.2023. On the said date, considering that the matter had been pending since 2016 at the stage of complainant's evidence, her right to lead further CE (CW-1) was closed. Nevertheless, the learned Trial Court, showing indulgence, granted her one more opportunity to lead the remaining CE on 22.07.2023, subject to the payment of costs of ₹20,000/-. Despite this, on 04.11.2023, the complainant again failed to appear, and the cost imposed upon her also remained unpaid.

10. It was only on 09.09.2024 that the complainant deposited a reduced amount of ₹2,000/-. The above sequence of events makes it evident that the complainant had been neither diligent nor serious about leading her evidence. The fact that the matter remained pending for recording the complainant's evidence from 2016 till July 2023 itself indicates her non-seriousness with regard to her own case.

11. At this stage, this Court also takes note of the observation made by the learned Trial Court that Section 311 of Cr.P.C. cannot be



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invoked to delay proceedings on account of a party's own negligence or casual conduct. The provision is meant to ensure that no failure of justice occurs, not to afford repeated opportunities to an indolent litigant. Considering that the very object of the NI Act is the expeditious disposal of cheque dishonour cases, entertaining such pleas as the present one would only defeat that legislative intent.

12. Accordingly, this Court finds no infirmity in the impugned order passed by the learned Trial Court dismissing the petitioner's application under Section 311 of Cr.P.C., as the reasoning assigned therein is well-founded and does not warrant interference.

13. The petition is, therefore, dismissed. Pending application, if any, also stands disposed of.

14. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

OCTOBER 28, 2025/ss