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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010351292026

+ **CRL.M.C. 5604/2026 & CRL.M.A. 23382/2026**

RAM GOPAL AGGARWAL

.....Petitioner

Through: Mr. Arvind Kumar and Mr. Ankit
Kumar Vats, Advs.

versus

A.S. SHOE ACCESSORIES PVT. LTD. & ANR. Respondents

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **04.08.2026**

CRL.M.A. 23383/2026 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.M.C. 5604/2026 & CRL.M.A. 23382/2026

1. The present petition has been filed under Section 529 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking quashing of the Complaint Case No. 3045/2017, pending before the Judicial Magistrate First Class, Tis Hazari, Delhi under Section 138 of the Negotiable Instruments Act, 1881 ("NI Act").
2. Learned counsel appearing for the petitioner submits that he is not responsible for the cheque in question neither he was a proprietor nor a



signatory.

3. Heard learned counsel for the parties and perused the record.

4. The complaint avers that complainant is engaged in the business of manufacturing and trading pigments, lacquers, release agents for polyurethane (PU) shoe soles and other finishing chemicals for the footwear industry. According to the complaint, the petitioner approached the complainant for supply of such chemicals/materials for shoe-sole systems, which were supplied to the petitioner from time to time. A sum remained outstanding towards the goods supplied, and, in discharge of the said liability, the petitioner allegedly issued a cheque in favour of the complainant. The cheque was presented for encashment but was returned unpaid with the remarks "EXCEEDS ARRANGEMENT", and was thereafter presented again and dishonoured.

5. The complainant further states that, upon receipt of information regarding the dishonour, it issued a statutory legal demand notice dated 20.04.2017 through counsel, calling upon the petitioner to make payment of the cheque amount within the prescribed period. Despite service of the notice, the petitioner allegedly failed to make the payment, resulting in commission of an offence under Section 138 of the NI Act. The complaint was thereafter instituted within the prescribed period before the learned Judicial Magistrate First Class, Tis Hazari Courts, Delhi, and the complainant asserts that the offence falls within the territorial jurisdiction of the said Court.

6. The facts of the case would indicate that the cognizance against the petitioner was taken way back in the year in 2018. For all these years, the petitioner has not taken any action. In the interregnum much water has flown



before the Trial Court in the subject proceedings. It appears that only upon the Trial Court passing the order dated 17.04.2026 directing the appearance of the petitioner and seeking a bail bond to be furnished, the present petition has been filed.

7. Thus, under the guide of seeking the quashment of the complaint, the petitioner, effectively seeks the setting aside of the order taking cognizance as also the order dated 17.04.2026. In this connection, it may be noted that the Supreme Court in ***Rikhab Chand Jain v. Union of India & Ors.***,¹ has observed that if the petitioner has not availed the appropriate remedy within the prescribed time, he cannot seek the appropriate remedy at his discretion. The relevant para 12 is extracted as under: -

“12. That apart, the majority view in a previous Constitution Bench in A. V Venkateswaran, Collector of Customs, Bombay v. Ramchand Sobhraj Wadhvani¹² reads thus:

“14. ..., we must express our dissent from the reasoning by which the learned Judges of the High Court held that the writ petitioner was absolved from the normal obligation to exhaust his statutory remedies before invoking the jurisdiction of the High Court under Article 226 of the Constitution. If a petitioner has disabled himself from availing himself of the statutory remedy by his own fault in not doing so within the prescribed time, he cannot certainly be permitted to urge that as a ground for the Court dealing with his petition under Article 226 to exercise its discretion in his favour. Indeed, the second passage extracted from the judgment of the learned C.J. in Mohammed Nooh case with its reference to the right to appeal being lost ‘through no fault of his own’ emphasizes this aspect of the Rule.

In essence, this Court was of the opinion that once a petitioner has due to his own fault disabled himself from availing a statutory remedy, the discretionary remedy under Article 226 may not be available.

(Emphasis supplied)

8. Thus, if the petitioner was aggrieved against the cognizance order, the petitioner should have taken appropriate remedy at the relevant point of

¹ 2025 INSC 1337.



time. Further, the aspect as to whether the petitioner was the proprietor or not is the subject matter of the trial.

9. Leaving that issue open, the Court does not find any reason to interfere into the same at this stage.

10. The petitioner is, therefore, dismissed.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 4, 2026/P