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

+ **CRL.M.C. 502/2025**

SH DEEPAK AGGARWAL

.....Petitioner

Through: Counsel for Petitioner (appearance
not given)

versus

THE STATE (GOVT OF NCT OF DELHI) & ORS.....Respondents

Through: Mr. Satinder Singh Bawa, APP for
the State with SI Sumeet Poonia, PS
Vivek Vihar.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

27.01.2025

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CRL.M.A. 2378/2025 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

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3. The Petition under Article 227 of the Constitution of India, 1950 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) has been filed on behalf the Petitioner, Deepak Aggarwal, to challenge the Order dated 11.09.2024 of the learned Trial Court, whereby the Complainant/Petitioner has been directed to furnish the fresh address of the Respondent No. 2, Mr. Kanwar Jeet Singh.
4. It is submitted that the Complaint under Section 138 of *the Negotiable Instrument Act, 1881*, was filed by the Complainant/Petitioner. The



Respondent No. 2 and 4 were summoned *vide* Order dated 29.05.2019 and were directed to be served but could not be served. Consequently, NBWs were issued against Mr. Kanwar Jeet Singh on PF, *vide* Order dated 02.11.2019. Thereafter, COVID commenced and the proceedings started afresh in 2022, when the NBWs issued against the Respondent No. 2, were received with the Report that it could not be executed. The Warrants were again directed to be issued and *vide* impugned Order dated 31.07.2023.

5. The learned Metropolitan Magistrate directed the Complainant to verify the existing address and to file the affidavit, if any, or to file fresh address of the accused. Since the Complainant failed to appear on the next date i.e. 01.03.2024, the said directions were reiterated in the Order dated 01.03.2024. Again on 11.09.2024, since the Complainant failed to give the alternative address of the accused, one more opportunity was granted subject to cost of Rs.1,000/-.

6. Learned counsel on behalf of the Petitioner, submits that once the NBWs were directed to be issued, the proceedings under Section 82 and 83 Cr.P.C, should have been commenced and the fresh alternate address could not have been sought from the Petitioner/Claimant.

7. **Submissions heard and the record perused.**

8. First and foremost, it is a Complaint under Section 138 of the N.I Act, filed on behalf of the Complainant, which though adjudicated under the procedure of Criminal Procedure Code/B.N.S.S, the proceedings are quasi-criminal.

9. Furthermore, while the law provides a procedure to be followed for service of the accused persons and state that in case the NBWs are not getting executed, the Court may proceed under Section 82 CrPC. However,



before proceedings under Section 82 CrPC, it is the bounden duty to ensure that there is no other alternative address of the accused available. It is a case which has been initiated by the Complainant and it is for the Complainant, to trace out and in case, he has no other address available, he can state so on the Affidavit. There cannot be any grievance on the part of the Complainant if the Court seeks any other address of the accused on affidavit, from the Petitioner/Complainant.

10. There is no merit in the present Petition, which is hereby dismissed and disposed of accordingly.

NEENA BANSAL KRISHNA, J

JANUARY 27, 2025/RS