



\$~46

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

+ **CRL.M.C. 2770/2025**

VIMAL CHAWLA

.....Petitioner

Through: Mr. Manish Gandhi,  
Mr. Abhishek Sharma, Ms.  
Rishika Nagpal, Mr. Ankit  
& Mr. R.K. Goel, Advs.

versus

THE STATE OF NCT OF DELHI  
AND ANR

.....Respondents

Through: Mr. Naresh Kumar Chahar,  
APP for the State.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER**

% **25.04.2025**

**CRL.M.A. 12421/2025 (for exemption)**

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

**CRL.M.C. 2770/2025 & CRL.M.A. 12420/2025 (for stay)**

3. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') challenging the order dated 25.03.2025 (hereafter '**impugned order**') pursuant to which the application filed by the petitioner under Sections 73 and 45 of the Indian Evidence Act, 1872, was dismissed in CC No. 528/ 2017.

4. The complaint was filed by the complainant under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act') for the

dishonour of cheques given by the petitioner towards the alleged repayment of loan amount.

*This is a digitally signed order.*

*The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.*

*The Order is downloaded from the DHC Server on 08/05/2025 at 16:00:37*



5. The application was filed by the petitioner seeking directions for sending the cheques in question for forensic examination to determine the age of the ink and the handwriting, to adjudicate the contradictions in the complainant's testimony regarding who filled the cheque and the timeline of its issuance.

6. The learned Trial Court while dismissing the application of the petitioner noted that the signatures on the cheque have been admitted by him and therefore the presumption under Section 139 of the NI Act would operate in favour of the complainant unless the same is rebutted. The learned Trial Court further noted that merely alleging contradictions in the version of the complainant, without disputing the execution of the cheque, does not justify referring the same to an expert.

7. The learned counsel for the petitioner, at the outset, on instructions, submits that certain observations have been made by the learned Trial Court which would prejudice his defence at the time of final arguments.

8. He submits that he may be allowed to withdraw the application filed before the learned Trial Court and the impugned order be set aside.

9. He submits that the applications were filed on a wrong advice at that stage and that the defence as sought to be raised by the petitioner would be a subject matter of final arguments. He submits that any pre-emptive observation as made by the learned Trial Court would come in the way of his defence at the time of final arguments.

10. As per the case of the petitioner, there are discrepancies in the version of the complainant as in his cross-examination dated

28.06.2019, he has stated that the cheques were given to him duly filled in with all contents, whereas, in his cross-examination dated

*This is a digitally signed order.*

*The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.*

*The Order is downloaded from the DHC Server on 08/05/2025 at 10:00:37.*



26.11.2021, he stated that the cheques were given in blank in anticipation of procuring a loan.

11. The petitioner, however, does not dispute the signatures on the cheques but is contending that the said cheques were not filled by him and were given as security in anticipation of procurement of loan.

12. The Hon'ble Apex Court in ***Oriental Bank of Commerce v. Prabodh Kumar Tewari*** : 2022 SCC OnLine SC 1089, while relying on ***Bir Singh v. Mukesh Kumar*** : (2019) 4 SCC 197 and ***Rangappa v. Sri Mohan*** : (2010) 11 SCC 441, set aside the order of the High Court by which the accused was permitted to engage a hand-writing expert to determine whether the details in the cheque were filled in by the accused, as the same would not absolve the accused of his liability. It was held as under:

*4. The respondent admits that he signed and handed over a cheque to the appellant. According to the respondent a signed blank cheque was handed over by him. The question which arises in the appeal is whether the High Court was correct in permitting the respondent to engage a hand-writing expert to determine whether the details that were filled in the cheque were in the hand of the respondent. For the reasons set out below, we have allowed this appeal against the order of the High Court for the reason that Section 139 of the NI Act raises a presumption that a drawer handing over a cheque signed by him is liable unless it is proved by adducing evidence at the trial that the cheque was not in discharge of a debt or liability. **The evidence of a hand-writing expert on whether the respondent had filled in the details in the cheque would be immaterial to determining the purpose for which the cheque was handed over. Therefore, no purpose is served by allowing the application for adducing the evidence of the hand-writing expert.***

XXX

XXXX

XXXX

*18. For such a determination, the fact that the details in the cheque have been filled up not by the drawer, but by some other person would be immaterial. **The presumption which arises on the signing of the cheque cannot be rebutted merely by the report of a hand-writing expert. Even if the details in the cheque have not been filled up by drawer but***

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.  
The Order is downloaded from the DHC Server on 08/05/2025 at 16:00:37



by another person, this is not relevant to the defense whether cheque was issued towards payment of a debt or in discharge of a liability.

19. Undoubtedly, it would be open to the respondents to raise all other defenses which they may legitimately be entitled to otherwise raise in support of their plea that the cheque was not issued in pursuance of a pre-existing debt or outstanding liability.

20. In the circumstances, the appeal is allowed and the impugned order of the Single Judge of the Delhi High Court dated 24 July 2019 is set aside. The report which has been received in pursuance of the impugned order dated 24 July 2019 shall not be taken into consideration during the course of trial.

21. The application filed by the respondent for the examination of a hand-writing expert shall in the circumstances stand dismissed. The present order shall not affect the merits of the trial or the rights and contentions of the respective parties during the course of the trial.

(emphasis supplied)

13. Considering the above, this Court finds no infirmity in the view taken by the learned Trial Court in the impugned order, however, since the petitioner seeks to withdraw his application with a prayer that the final arguments be heard without being influenced by the observations made by the learned Trial Court in the impugned order, this Court considers it apposite to set aside the impugned order and permit the petitioner to withdraw his application which was filed before the learned Trial Court.

14. The petitioner is permitted to take such arguments at the time of final hearing, after completion of the evidence, in accordance with law.

15. In view of the above, the order dated 25.03.2025 passed by the learned Trial Court, is quashed on the prayer made by the learned counsel for the petitioner.

16. No further orders are required to be passed in the present

*This is a digitally signed order. Learned Trial Court is directed to pass final order in accordance with law without being influenced by the impugned order.*  
*The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.*  
*The Order is downloaded from the DHC Server on 08/05/2025 at 16:00:37.*

order or the present order.



17. The petition is disposed of.

**AMIT MAHAJAN, J**

**APRIL 25, 2025**

**“SS”**

*This is a digitally signed order.*

*The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.*

*The Order is downloaded from the DHC Server on 08/05/2025 at 16:00:37*