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

\+ CRL.M.C. 3260/2025, CRL.M.As. 14366-14367/2025

DEVENDRA GUPTA .....Petitioner

Through: Mr. Aseem Mehrotra and Ms. Deeksha Mehrotra, Advocates.

versus

INTEC CAPITAL LTD. THROUGH ITS DIRECTOR & ORS. .....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% 08.05.2025

1. The present petition filed under Section 482 of Criminal Procedure Code, 1973[1] seeks to set aside the impugned judgment and order dated 13th January, 2023, passed by ASJ, South District, Saket, New Delhi[2] in Criminal Revision No. 223/2021 as well as the order dated 10th February, 2020, passed by MM, South, Saket, New Delhi[3] in Complaint Case No. 26362/2017.

2. The facts of the case, are summarised as follows:

2.1. Petitioner is the Chairman-cum-Founder of Dr. R.N. Gupta Technical Educational Society. Respondent No. 1 is a Non-Banking Financial Company engaged in the business of providing loan finance, hire purchase and leasing of motor vehicles and machinery plant etc. Respondent No. 2 and 3 are the Directors of Respondent No. 1 company and are part of its

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[1] "CrPC"
[2] "Revisional Court"
[3] "Trial Court"

management. Respondent Nos. 4 and 5 were working as Area Collection Manager and Assistant Manager, respectively, at the relevant time.

2.2. Owing to certain loan transactions between the Petitioner and Respondent No. 1, various disputes arose, culminating in multiple litigations. In the backdrop of such discord, on 16th November, 2017, Respondent Nos. 4 and 5 allegedly entered the Petitioner's residence, used offensive language, and allegedly threatened him. The Petitioner called the police, and both Respondent Nos. 4 and 5 were detained. At the police station, they purportedly submitted a handwritten apology, stating they had acted under instructions from Respondent No. 2.

2.3. Based on the incident, the Petitioner filed a private complaint under Section 200 CrPC against all five Respondents. After recording the pre-summoning evidence, the Magistrate *vide* order dated 10th February, 2020 summoned Respondent Nos. 4 and 5 for offences under Sections 448, 506, and 500 of IPC. However, the Court declined to summon Respondent Nos. 1 to 3, noting that an absence of specific allegations or material linking them directly to the incident.

2.4. Aggrieved by the non-summoning of Respondent Nos. 1 to 3, the Petitioner filed Criminal Revision Petition No. 223/2021 before the Session Court. The Revisional Court, *vide* order dated 13th January, 2023, dismissed the Criminal Revision Petition and upheld the order of the Trial Court.

3. Counsel for the Petitioner advances the following submissions in support of the challenge to the impugned orders:

3.1. The orders suffer from material irregularity in failing to summon Respondent Nos. 1 to 3 despite the evidence led by the Petitioner and documentary material on record. The summoning of only Respondent Nos. 4

and 5, while excluding the company and its senior management, is contrary to the overall tenor of the complaint.

3.2. Attention is drawn to the apology letter allegedly written by Respondent Nos. 4 and 5 to the Station House Officer, wherein they are stated to have admitted acting at the directions of Respondent No. 2. It is urged that this admission constitutes direct attribution of responsibility to the upper echelons of the company, which the courts below failed to take into account.

3.3. The Courts below have failed to consider that all the Respondents entered into a criminal conspiracy for committing the offence against the Petitioner and therefore summoning should not be restricted to Respondent No. 4 and 5.

3.4. The surrounding circumstances, including pending litigation between the parties, establish a motive for orchestrating the alleged incident and reinforce the Petitioner's claim that the actions of Respondent Nos. 4 and 5 were not independent but part of a coordinated effort involving Respondent Nos. 1 to 3.

4. The Court has carefully considered the submissions and examined the record. At the outset it must be emphasised that there has been a substantial and unexplained delay in the institution of the present petition. The Revisional Court rendered its decision on 13th January, 2023, and yet no cogent or credible explanation has been furnished for approaching this Court after such a prolonged interval. The submission that parallel litigations were ongoing is, at best, a generalised assertion and cannot justify the omission to challenge the order in a timely manner. The law does not countenance substantial delay, with sufficient cause, which is conspicuously absent in

this case.

5. Even if the delay were to be ignored in the interest of substantive justice, the petition fails on merits. Section 482 of the Code cannot be invoked merely to re-appreciate factual findings or re-agitate contentions already addressed in revision. The inherent jurisdiction of the High Court is reserved for cases involving palpable illegality, manifest miscarriage of justice, or abuse of the judicial process. In the absence of any demonstrable perversity or jurisdictional error in the impugned orders, there is no warrant for this Court to exercise its extraordinary power. It bears reiteration that where a Revisional Court has already undertaken a scrutiny of the material on record and affirmed the Trial Court's conclusions, the threshold for intervention becomes even more exacting. No such threshold is met here.

6. The relevant extract of the decision of Revisional Court is as follows:

> *"1. This is a revision petition filed by Devender Gupta (Revisionist) against an order dated 10.02.2020 passed by the Ld. Trial Court whereby it summoned two accused persons and declined to summon some other accused persons against whom the complainant had also made allegations. The revision was filed by arrying 5 respondents including those who were summoned by the Trail Court. Ld. Predecessor, however, opined that the summoned accused persons were not necessary party and therefore, she issued notice only to the respondent Nos. 1,2 & 3.*
>
> *2. Both the sides have been beard. Record perused.*
>
> *3. It seems that the revisionist runs some institutions whereas respondent No. 1 company is in the business of providing loan whereof respondent Nos. 2 and 3 are directors. It seems that there was some loan transaction between the parties. The respondent side claims that the revisionist owes money and is not repaying. Some NI Act case is going on. On the other hand, revisionst, claims that it is the respondents who owe money and have fabricated some documents. Some forgery case is also going on.*
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> *4. It is in the aforesaid situation that two persons namely, Tarun and Sunil entered the house of the revisionist on 16.11.2017 and used filthy language, threatened the complainant and defamed him by calling him cheat. Therefore, the revisionst filed a compaint case before the Ld. Trial Court. In the said case, the Ld. Trial Court passed the following order:-*

"Clarifications was sought from the ld counsel as per which it was stated by the ld. counsel that he is pressing allegations pertaining to the incident which took place on 16.11.2017. It was further stated by ld counsel that the offences alleged against the alleged persons are sections 448/452/506 and 500 IPC. It is alleged by the complainant that on 16.11.2017 the alleged persons alongwith three unknown persons came to the house of the complainant bearing no. B1/28 second floor Malviya Nagar New Delhi at about 12:25 pm and forcibly entered inside the house and they started shouting that the complainant has taken loan and they have come for collecting the payment. Hearing the noise many people gathered at the place of incident and the complainant called the police. At that time the three unknown associates ran away. Thereafter the police officials came at the spot and two persons namely Tarun Sharma and Sunil were apprehended by the police.

From the wholesome perusal of the pre summoning evidence led by the complainant, the allegations in the complaint and the documents relied upon by the complainant it can be deciphered that there are allegations attracting offences punishable U/s 448/506 and 500 IPC is made out qua the alleged persons. Issue summons to alleged persons namely Tarun Sharma and Sunil Nirala for answering allegations U/s 448/506 and 500 IPC on filing of PF within 7 days from today. ***There are no allegations qua alleged persons 1, 2 and 3 for the incident dated16.11.2017".***

5. *Ld. Counsel for the revisionist submits that there are clear allegations against remaining accused persons and therefore, the Ld. Trial Court committed error in not summoning them. He invited my attention to the copy of complaint filed before the Ld. Trial Court.* ***He pointed that Sunil and Tarun had entered the house of revisionist and acted accordingly at the instance of other proposed accused persons. He also invited my attention to the copy of certain letters written to SHO by Tarun Sharma and Sunil wherein they have apologized for their misbehaviour. The same also indicates their statement that they acted on the direction of Sanjiv Goyal (Respondent No. 2 herein). On this basis, Ld. Counsel for revisionist contends that Respondent Nos. 1, 2 & 3 should have been summoned.***

6. *I am of the opinion that there is nothing in the case which requires summoning of the respondent No. 1, 2 & 3. Apparently, there are money disputes between the parties. The copy of complaint shows that on complainant's asking, Sunil and Tarun had informed him that they were acting under the directions of respondent Nos. 2 and 3. This is hardly believable. Apart from this, the statement of any accused cannot be made a basis to implicate another person in any crime unless there are some other*

material available on record. So far as copies of alleged letters written to the SHO are concerned, the same cannot be admisiable at all as the same were written by the accused Sunil and Tarun to the police (which appears to be written after their apprehension by the police).

7. I am of the opinion that this revision petition has no merit at all. It appears that the revisionist is somehow trying to implicate the company and its directors to settle some score. The Ld. Trial Court could not have allowed this to happen as money transaction of the parties should only be decided in civil mechanism. The Ld. Trial did not find any sufficiency in the material brought on record by the complainant/revisionist and therefore, it declined to summon the company and its directors as accused. Summoning of any person to face a criminal trial is a very serious thing and cannot be done only on the asking of complainant. Furthermore, once a court has taken a decision not to summon the person, the innocence further gets more strength and unless very glaring defect is shown, the revisional court should not make any interference.

8. In view of the above, the revision petition is dismissed and order dated 10.02.2020 passed by the Ld. Trial Court is upheld so far as it declined to summon respondent No. 1, 2 and 3. The revision petition is disposed of.

9. A copy of this Judgment be sent to the Ld. Trial Court.

10. The revision file be consigned to the Record Room after due compliance."

[Emphasis Supplied]

7. The findings of the Revisional Court reveal no manifest error warranting interference under Section 482 CrPC. The conclusion that no sufficient material exists to summon Respondent Nos. 1 to 3 rests on a measured and fact-based assessment of the record. The Petitioner's reliance on the alleged oral disclosures by Respondent Nos. 4 and 5, purportedly made at the time of the incident and later repeated in a letter of apology to the police, is clearly insufficient to summon Respondent No. 1 to 3. The settled legal position, as reiterated by the Revisional Court, is that a statement made by an accused, especially one made post-detention cannot by itself form the basis for invoking criminal liability against another individual, unless duly corroborated by independent material. In this case, no such material is found.

8. Furthermore, the Revisional Court's observation that summoning a person to face criminal trial is a matter of grave consequence, not to be resorted to lightly or mechanically, is well-founded in law. The Supreme Court has time and again underscored that the process of summoning must not become an instrument of harassment or be deployed to settle private scores. Once a competent Court has declined to summon certain individuals based on a full appraisal of the complainant's evidence, and such decision has been upheld in revision, the presumption of innocence in their favour stands strengthened. Absent any glaring procedural irregularity, demonstrable legal infirmity, this Court finds no justification to disturb those concurrent findings. The impugned orders neither reflect a miscarriage of justice nor any abuse of the judicial process.

9. The Court also finds it significant that, even at the stage of pre-summoning, the Magistrate specifically recorded that "*there are no allegations qua alleged persons 1, 2 and 3 for the incident dated 16.11.2017.*". This observation reflects evaluation of the pleadings and pre-summoning evidence. It demonstrates that the complaint, in substance, failed to make any direct or attributable allegations against Respondents Nos. 1 to 3 for the incident in question. In such circumstances, the Petitioner's attempt to invoke criminal conspiracy, without any foundational allegations in the complaint itself, and solely on the basis of a purported oral disclosure and a letter of apology by other accused, is legally untenable. Criminal conspiracy under Section 120B of IPC requires clear evidence of a prior meeting of minds or active participation, which cannot be inferred from vague or uncorroborated statements. The mere assertion that the incident occurred "on instructions" of a director, without any supporting

material or specific act connecting them to the offence, falls far short of the legal threshold required to summon an accused in a private complaint.

10. In light of the foregoing, this Court is, therefore, in agreement with the views taken by both the Courts in the impugned orders that that the material relied upon by the Petitioner is inadequate to justify criminal process against Respondents Nos. 1 to 3. In the absence of any clear averments or independent material indicating their roles in the incident dated 16th November, 2017, the invocation of Section 120B IPC appears to be an afterthought aimed at dragging senior officials of the company into criminal litigation.

11. Accordingly, the present petition is dismissed with costs of ₹20,000/-, to be paid by the Petitioner to the Delhi State Legal Services Authority within two weeks from today.

SANJEEV NARULA, J

MAY 8, 2025/*nk*