



2025:DHC:10625



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

% *Date of Decision: November 24, 2025*

+ **CRL.M.C. 5224/2025 & CRL.M.A. 22597/2025**

DR. AKHILESH MISHRAPetitioner

Through: Mr. Darshan Sharma &
Ms. Poonam Shah, Advs.

versus

STATE OF NCT OF DELHI & ANR.Respondent

Through: Mr. Raj Kumar, APP for
the State.
Mr. Dhruv Sehgal, Adv.
for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (ORAL)

1. The present petition is filed challenging the order dated 02.05.2025 (hereafter '**impugned order**') passed by the learned Court of Sessions thereby dismissing the revision petition filed by the petitioner, impugning the order dated 07.03.2025 passed by the learned Judicial Magistrate First Class ('**JMFC**') in Complaint Case No. 1396/2020.

2. The complaint was filed by Respondent No. 2 under Section 138 of the Negotiable Instruments Act, 1881 and during the course of the cross-examination of the petitioner/ accused, a document was produced by Respondent No. 2, allegedly signed by the petitioner, declaring that he had taken certain amount from

Signature Not Verified

Signed By: KAMALDEEP

KAUR

Signing Date: 28.11.2025

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the complainant and had also issued a cheque. The said document was even signed by witnesses.

3. The petitioner, during his cross-examination, though admitted that signatures on the said document were his signatures, however, he stated that the signatures of the witnesses were forged as no witness was ever present.

4. The petitioner filed an application under Section 311 of the Code of Criminal Procedure, 1973 ('CrPC') seeking re-examination of the witnesses and for summoning the said witnesses mentioned in the document being Ex. DW1/4, with which the petitioner was confronted during his cross-examination.

5. The learned JMFC dismissed the application under Section 311 of the CrPC *vide* order dated 07.03.2025 noting that the petitioner had been afforded ample opportunities to defend his case and no substantial justification had been provided by the petitioner to allow the same.

6. Aggrieved by the aforesaid order, the petitioner preferred a revision petition which was dismissed by the learned Sessions Court *vide* the impugned order. The learned Sessions Court noted that the petitioner had ample opportunity to request the summoning of the witnesses from the time the document was first introduced into evidence on 20.05.2023, up until the closure of defence evidence on 02.05.2024. It was noted that no such application was made at any point by the petitioner during the defence stage and the same was only made at the stage of final



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arguments, in 2025. It was noted that the deliberate inaction by the petitioner suggests an attempt to unnecessarily prolong the trial. It was further noted that no valid reason had been provided by the petitioner to justify the delay in filing the application under Section 311 of the CrPC.

7. The learned counsel for the petitioner submits that the learned Trial Court closed the defence evidence on 02.05.2024 and immediately on the next date, 09.07.2024, an application was filed by the petitioner under Section 311 of the CrPC seeking summoning of bank witness from SBI, Escort Heart Research Institute. He submits that the learned Trial Court issued summons to the Bank witness *vide* order dated 20.09.2024. He submits that on 14.11.2024, the learned Trial Court examined the bank witness and discharged him whereafter the matter was listed for 04.02.2025. He submits that the defence evidence was not closed explicitly. He submits that on 03.02.2025, the petitioner filed an application under Section 311 of the CrPC to call additional witnesses which was erroneously dismissed *vide* order dated 07.03.2025.

8. He submits that the document in question was confronted to the petitioner during cross examination. The petitioner though admitted his signatures, however, stated that the signatures of the witnesses had been forged. He submits that no witness had signed the said document nor has the Notary Public attested the said document, in the presence of the petitioner.

9. He submits that the Notary Public and attesting witnesses



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ought to be summoned to verify the authenticity of the said document in order to ensure just and fair adjudication of the case.

10. *Per Contra*, the learned counsel for Respondent No.2 submits that the impugned order is well reasoned and warrants no interference by this Court. He submits that the petitioner was granted various opportunities to request the summoning of the witnesses, and the same ought not to be allowed at such a belated stage.

11. He submits that the said document was confronted to the petitioner during his cross examination, wherein the petitioner admitted the existence of the document and his signature on the same. He submits that the petitioner is estopped from raising questions/objections or lead evidence to shake the veracity of the said document.

12. I have heard the counsel and perused the record.

13. Undisputedly, the conduct of the petitioner has not been appropriate. He has not been diligent in pursuing the matter which has led to waste of judicial time.

14. It is pertinent to note that while the petitioner's defence evidence was closed on 02.05.2024 and the matter was listed for final arguments on 09.07.2024, however, in the meantime the petitioner had filed an application under Section 311 of the CrPC which was allowed and summons were issued to the said witness. On 14.11.2024 the said witness was examined and discharged whereafter the matter was listed on 04.02.2025.

15. Thereafter, the petitioner filed another application on



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03.02.2025, to summon additional witnesses under Section 311 of the CrPC which was dismissed *vide* order dated 07.03.2025. In the opinion of this Court, the practice of the petitioner of filing repeated applications has undisputedly led to delay in adjudication of the present case.

16. At the same time, it is pertinent to note that during the cross examination of the petitioner, he was confronted with a document in which the petitioner had allegedly admitted his debt and the alleged factum of the petitioner having issued the subject cheque. The petitioner acknowledged his signature on the agreement but stated that the signatures of the attesting witnesses were forged. The petitioner by the present application under Section 311 of the CrPC seeks summoning of the Notary Public who notarised the aforesaid document and its attesting witnesses.

17. The examination of the aforesaid witnesses, thus, in the opinion of this Court appears to be essential to the just adjudication of the case.

18. Undisputedly, the conduct of the petitioner in the present case has led to delay in the proceedings, however, in the opinion of this Court, one last opportunity should be granted to the petitioner to cross-examine the complainant on adequately compensating the complainant for the delay and harassment caused.

19. In view of the above, the impugned order as well as order dated 07.03.2025 are set aside, subject to the petitioner paying a cost of ₹30,000/- to Respondent No.2/ complainant before the



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next date of hearing before the learned Trial Court. Consequently, the petitioner's application under Section 311 of the CrPC is allowed.

20. Considering that the complaint has been pending since the year 2020, the learned Magistrate is requested to not grant any unwarranted adjournments and to ensure that the examination of the concerned witnesses is conducted as expeditiously as possible.

21. The present petition is allowed in the aforesaid terms. Pending applications, if any, also stand disposed of.

22. A copy of the order be sent to the learned Trial Court for compliance.

AMIT MAHAJAN, J

NOVEMBER 24, 2025
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