



\$~110

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 6193/2025 and CRL.M.A. 26262/2025 & CRL.M.A. 26263/2025

SH. RITESH KUMARPetitioner
Through: Mr.Salim Malik, Advocate

versus

THE STATE OF NCT OF DELHI & ANR.Respondents
Through: Mr.Digam Singh Dagar, APP with SI
Gajal Chugh, PS Krishna Nagar
Mr.Gurpreet Singh Gulati, Advocate
for R-2

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

ORDER
03.09.2025

%

Crl.M.A. No. 26263/2025 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

Crl.M.C. No. 6193/2025 and Crl.M.A. No. 26262/2025 (Stay)

1. The petitioner vide the present petition under Section 528 of the BNSS seeks setting aside of the impugned order dated 21.08.2025 passed by the JMFC Mahila Court-01, East District, Karkardooma Courts, in CC No. 1637/2020, sub judice under section 138 of NI Act. The learned Trial Court has dismissed the list of witnesses filed by the petitioner in view of the order dated 16.07.2025 passed by the learned ASJ East District, Karkardooma Court in Crl. Rev. No. 144/2025 and 146/2025.
2. Respondent No. 2/complainant has alleged that the petitioner



borrowed a sum of ₹8,50,000/- between July 2019 and January 2020, and in discharge thereof issued two post-dated cheques: No. 499353 dated 29.02.2020 for ₹4,50,000/- and No. 499354 dated 29.02.2020 for ₹4,00,000/-, both drawn on Yes Bank, Shakarpur, Delhi. The cheque for ₹4,50,000/- was presented but dishonoured with the remark “Payment Stopped by Drawer” vide memo dated 07.03.2020. Legal proceedings ensued leading to filing of the complaint, *ibid*.

3. Petitioner has stated that during the pandemic, the petitioner suffered financial losses and serious health complications (depression, hypertension, diabetes, memory issues) and could not attend several hearings. Consequently, the Trial Court imposed costs on 20.12.2024 and 13.01.2025, dismissed exemption applications, dispensed with his statement under Section 313 CrPC, issued NBWs, and even closed defence evidence (D.E.) on 15.04.2025.

4. Petitioner had filed a revision petition assailing the aforesaid order. In revision, the ASJ on 16.07.2025 granted a last opportunity subject to costs and strict timelines, later partly modified by the this Court reducing costs to ₹15,000/- per case. The petitioner thereafter recorded his statement under Section 313 CrPC on 08.08.2025, paid costs to the complainant, and examined himself as DW-1 on 21.08.2025.

5. However, despite DW-1’s cross-examination continuing till 5:30 PM, the Trial Court abruptly closed the petitioner’s right to lead defence witnesses, rejecting his list of witnesses. Hence the instant petition.

6. I have heard the rival contentions and perused the case file.

7. Learned counsel for the petitioner would contend that the Trial Court erred in mechanically applying the conditions of the revisional order dated



16.07.2025 without appreciating that DW-1 was examined at length till late evening and it was impossible to conclude the entire defence evidence in one day.

7.1 He submits that the petitioner never sought adjournments; rather, he was present on each date. Hence, closure of D.E. is unjustified. The right to lead defence evidence is a valuable and substantive right flowing from Section 243(2) CrPC. Its denial amounts to denial of fair trial. By shutting out defence evidence, the Trial Court buried rather than unearthed the truth.

7.2 He points out that the petitioner had cited six defence witnesses, all material and relevant to rebut the presumption under Section 138 NI Act. Among them are Krishan Gopal Sharma : who was present when petitioner repaid a loan of ₹70,000/- to one Rajesh Kumar, who misused petitioner's blank signed cheques; Rajat Aggarwal: landlord of the Krishna Nagar premises, to prove petitioner vacated prior to issuance of notice, making service defective and Investigating Officer of petitioner's police complaint against Rajesh Kumar; and Nodal Officer (Airtel): to prove no telephonic contact between petitioner and complainant, contradicting complainant's version of prior dealings.

8. Learned counsel for the respondent no.2 opposes the petitions for the reasons stated in the impugned order and states no interference of this court is warranted.

9. Having heard, I am of the view that what seems to have weighed with the learned Trial Court is the past conduct of the petitioner. However, the Trial Court acted in undue haste in closing defence evidence merely on account of earlier delay. While it is true that justice delayed is justice denied, it is equally well-settled that justice hurried is justice buried. The petitioner



had begun leading his defence and was cross-examined till late hours. To deny him further opportunity to examine material witnesses, without even single adjournment being sought, is manifestly unjust.

10. A fair trial requires not only that prosecution be given full opportunity to prove its case, but also that the accused be afforded a meaningful chance to rebut the statutory presumption under Section 138 NI Act. Denying this right amounts to denial of natural justice.

11. In view of the foregoing, the petition is allowed. The impugned orders dated 16.07.2025 (to the extent it curtailed opportunity) and 21.08.2025 (closing defence evidence) are set aside. The petitioner shall be afforded one final but effective opportunity to examine his listed witnesses, subject to further opportunity at the discretion of the learned Trial Court as it may deem fit depending upon its workload.

12. The petition is thus disposed of.

ARUN MONGA, J

SEPTEMBER 3, 2025
SV