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

+ CRL.M.C. 6265/2025, CRL.M.A. 26471/2025

MOHD MATEEN

.....Petitioner

Through: Mr. Anand Vardhan, Ms. Maitriya
and Ms. Neetu Sindhi, Advocates.

versus

THE STATE NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Anish Bhola, Advocates for R-2.
Mr. Mukesh Kumar, APP for State.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **13.10.2025**

1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ is directed against orders dated 8th July, 2025 and 4th August, 2025 passed by the JMFC, NI Act, Central, Tis Hazari Courts in CC NI Act No. 8808/2022. By these orders, the Trial Court has closed the opportunity previously granted to the Petitioner, to file an application under Section 145(2) of the Negotiable Instruments Act, 1881,² seeking permission to cross-examine Respondent No. 2 (the Complainant).

2. Briefly stated, the Petitioner is the accused in a complaint filed by Respondent No. 2, under Section 138 of the NI Act. The Petitioner is aggrieved by the order dated 8th July, 2025 whereby his right to file an application under Section 145(2) of the NI Act was closed. The Petitioner

¹ "BNSS"

² "NI Act"



further challenges the subsequent order dated 4th August, 2025, whereby his application seeking recall of the aforesaid order was dismissed by the Trial Court.

3. Counsel for the Petitioner submits that the Petitioner was unable to file the application under Section 145(2) of the NI Act, 1881, within the timeline stipulated by the Trial Court, due to certain health-related issues. He however contends that the cross-examination of the Complainant is imperative for the effective defence of the Petitioner, and that denial of such an opportunity would prejudice his right to rebut the statutory presumptions under the Act. Accordingly, he prays for the setting aside of the impugned orders.

4. On the other hand, Mr. Anish Bhola, counsel for the Complainant/Respondent No. 2, submits that the Petitioner has been deliberately delaying the proceedings before the Trial Court. He points out that notice was framed against the Petitioner on 17th September, 2024, and he was granted an opportunity to file an application under Section 145(2), returnable on 31st January, 2025. However, he failed to avail of the said opportunity. The Trial Court, while taking note of this lapse on 31st January, 2025, nonetheless showed indulgence and granted another opportunity, but to no avail. Thereafter, on 15th April, 2025, a last and final opportunity was extended to the Petitioner to file the application. Despite this, the application was not filed, prompting the Trial Court to close the Petitioner's right to file the application *vide* order dated on 8th July, 2025.

5. Mr. Bhola argues that the Petitioner's conduct clearly reflects a pattern of delaying the proceedings. However, he very fairly submits that in the event this Court is inclined to grant a further opportunity, it should be



subject to imposition of costs and strict timelines, with a specific direction that failure to comply shall result in automatic closure of the said right without any further indulgence.

6. In view of the foregoing, the present petition is allowed. The orders dated 8th July, 2025 and 4th August, 2025 are hereby set aside, insofar as they pertain to the closure of the Petitioner's opportunity to file an application under Section 145(2) of the NI Act, subject to the following conditions:

- i. The Petitioner shall pay costs of INR 15,000/- to the Complainant within a period of ten (10) days from today.
- ii. If not already filed, the Petitioner shall positively file the application under Section 145(2) of the NI Act on or before the next date of hearing before the Trial Court. The said application shall be considered on its own merits, in accordance with law.
- iii. The Petitioner shall not seek any unnecessary adjournment. In the event the Petitioner fails to avail of the opportunity granted herein, or attempts to delay the proceedings, the Trial Court shall be at liberty to pass appropriate orders in accordance with law.

7. With the above directions, the present petition stands disposed of along with pending application.

8. All rights and contentions of the parties on the merits of the application under Section 145(2) of the NI Act are left open.

SANJEEV NARULA, J

OCTOBER 13, 2025/nk