



\$~67, 68

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

+ CRL.M.C. 6593/2025, CRL.M.A. 27771/2025, CRL.M.A. 27772/2025 & CRL.M.A. 27822/2025

SANJEEV KAPOOR

.....Petitioner

Through: Mr. Sumanth De, Ms. Krati Tiwari,
Advocates

versus

M/S INTEC CAPITAL LTD

.....Respondent

Through: None

CRL.M.C. 6594/2025, CRL.M.A. 27773/2025, CRL.M.A. 27774/2025 & CRL.M.A. 27775/2025

SANJEEV KAPOOR

.....Petitioner

Through: Mr. Sumanth De, Ms. Krati Tiwari,
Advocates

versus

M/S INTEC CAPTIAL LTD

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

16.09.2025

%

1. The present petitions under Article 227 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Section 482 of the Code of Criminal Procedure, 1973) are directed against two separate orders: one dated 19th August 2025, passed by ASJ-02,



South-East, Saket Courts, New Delhi, in Criminal Revision No. 80/2025, and the other dated 21st August 2025, passed by ASJ-05, South-East, Saket Courts, New Delhi, in Criminal Revision No. 77/2025.¹ Both these orders uphold a common order dated 19th November 2024, passed by the Trial Court in Criminal Cases No. 8056/2017 and 8897/2017.

2. These proceedings arise from a complaint filed by the Respondent alleging an offence under Section 138 of the Negotiable Instruments Act, 1881.²

3. By the order dated 19th November, 2024, the Trial Court, allowed the complainant's application to place on record two documents, namely, an undertaking and an Addendum-cum-Restructure of Loan dated 21st February 2015. The impugned order dated reads as follows:

“Vide this order, I shall dispose of the application moved on behalf of the complainant for placing additional documents on record.

It is averred in the application filed by the complainant that the inadvertently, complainant did not file Addendum Cum Restructure of Loan at the time of filing of the present matter and the said document is required for the proper adjudication of the present matter. Therefore, the complainant seeks to place on record the additional document i.e. Addendum Cum Restructure of Loan.

Ld. counsel for the accused in reply has opposed the said application and submits that the said the present complaint was filed on 12.01.2017 and in the complaint, there is no where mentioned about any such document. Further, complainant was very well aware about the said document before filing of the complaint, however, still complainant did not file it. Hence, it is prayed that the present application be dismissed. Arguments already heard on last date of hearing.

Ld. counsel for the complainant submits that he wishes, to place on record Restructure of the Loan Agreement only which is an admitted document and essential for just adjudication of the present case.

Ld. counsel for the accused submits that at this stage no new documents can be brought on record at this stage since nothing has been averred in the complaint about the restructuring of the loan.

¹ “the impugned orders”

² “NI Act”



Heard. Perused.

Considering the submissions of both the parties, it is deemed fit to allow the application, for placing on record additional documents since no prejudice will be caused to the accused side by taking on record the Addendum Gum Restructure of Loan and Ld. counsel for the accused will get opportunity to cross-examine the witness on the said document as well.

In view of the above, application is disposed of as allowed.

Put up the matter for CE/further proceedings on 15.01.2025.”

4. The Petitioner’s challenge to the common order in each complaint was rejected by the Revisional Courts through separate orders, though resting essentially on the same reasoning. The Courts found that the Addendum-cum-Restructure of Loan bore the Petitioner’s own signatures, directly related to the transaction underlying the dishonoured cheque, and was therefore a material document for proper and effective adjudication. It was reasoned that proceedings under Section 138 of the NI Act are not strictly comparable to civil recovery suits, where documents must accompany the plaint. A complaint under Section 138 is maintainable primarily on the strength of the dishonoured cheque and the statutory presumptions arising therefrom, with any supporting material being produced and tested at the stage of evidence. Since complainant’s evidence had not commenced, and the accused shall have full opportunity to cross-examine the witness and rebut the presumptions, no prejudice was shown. Delay in filing was thus treated as non-fatal, especially when the object of the trial is to ascertain the existence of a legally enforceable debt or liability.

5. Mr. Sumanth De, counsel for the Petitioner, argues that both the Trial Court and the Revisional Courts acted mechanically in permitting additional documents after a six-year delay. It is contended that this effectively allows the complainant to fill lacunae which is impermissible in law. Mr. De further



argues that the Revisional Court overlooked the fact that permission to file additional documents was granted after a lapse of six years from the filing of the complaint. The introduction of these additional documents at such a belated stage which were neither adverted to in the statutory notice nor in the original complaint, fundamentally alters the very basis on which the proceedings were initiated. He submits that the complainant cannot be allowed to improve its case at this advanced stage under the guise of producing additional evidence, and the impugned orders, having overlooked this principle, are liable to be set aside.

6. Having considered the matter, this Court is not persuaded. The scope of supervisory jurisdiction under Article 227, or inherent jurisdiction under Section 528 BNSS, is narrow. Interference lies only where the impugned orders disclose patent perversity, jurisdictional error, or manifest miscarriage of justice. This Court does not re-appreciate evidence or substitute its own discretion for that of the subordinate court, provided the discretion has been exercised judicially and with reasons.

7. The Revisional Courts had rejected the very contentions urged before this Court. The relevant extracts from both orders are already reproduced below:

7.1 Extract from order dated 19th August, 2025 in Criminal Revision No. 80/2025:

“9. I have heard Ld. Counsel for revisionist accused and Ld. Counsel for complainant/ respondent and have carefully gone through the record including the record of Ld. Trial Court.

10. The impugned order was passed on 19.11.2024 and present revision petition was filed on 17.01.2025 therefore, it was filed within limitation period. The impugned order was not an interlocutory order. That order decided the legal rights of the parties and therefore, present revision petition is maintainable before this Court.



11. The only contention raised by revisionist/ accused is that aforesaid document was not filed by the complainant at the time of filing of the present complaint case when it was in the control and possession of the complainant. Record reveals that complainant evidence is yet to commence before Ld. Trial Court. Perusal of the photocopy document i.e. Addendum-Cum- Restructure of loan dated 21.02.2015 prima facie shows that it was executed between the parties and bears the signature of the accused/ revisionist and also pertains to the loan in question. Further, neither the signatures of revisionist/ accused on the said document nor its execution between the parties, is disputed by way of present revision petition.

12. The primarily objective of a trial is to ascertain the truth, and it must be conducted in a manner that is fair to all concerned including the accused, the victims/ complainant and society at large. The denial of a fair trial is as much as injustice to the accused as it is to the victim/ complainant or to the society. A fair trial includes the provision of fair and proper opportunities as allowed by law to innocence. It is imperative that the procedural rules designed to ensure justice scrupulously adhered to, and the court must be vigilant in ensuring that there are no violations of these rules, as underscored in the case of **Kalyani Bhaskar Vs. Ms. Sampornam 2007 2 SCC**.

13. Having regard to the nature of the proceedings u/sec. 138 NI Act, the document sought to be placed on record is indeed relevant and material for adjudication of the dispute. Therefore, the aforesaid document is a crucial one for just decision and will prejudice to the complainant if the same is not taken on record and accused will not be prejudiced to the same as matter is the stage of the complainant evidence and accused will have every right to rebut and cross-examine the complainant upon the aforesaid document.

14. Considering aforesaid appreciation of record and case laws, I am of the considered view that Ld. Trial Court rightly, passed the order dated 19.11.2024. More so where, revisionist/ accused has failed to give any cogent reason regarding any shortcoming in the application of mind by Ld. Magistrate while passing impugned order and thus. I find that present revision petition is meritless. The reasons vide impugned order, were outcome of proper exercise of judicial discretion and is not an arbitrary order and not passed in a mechanical manner. It needs no interference.

Accordingly, present revision petition, stands dismissed. The impugned order dated 19.11.2024 passed by Ld. Trial Court stands upheld.

File be consigned to Record Room after due compliance.”

7.2 Order dated 21st August, 2025 in Criminal Revision No. 77/2025:



“1. The revisionist is aggrieved by impugned order dated 19/11/2024 of Ld. JMFC (NI Act)-4, South-East District, through which application of complainant (respondent herein) to place on record additional document i.e. Addendum-cum-Restructure of Loan was allowed, and complainant was permitted to lead evidence through said document.

2. It is argued that the aforementioned Addendum-cum-Restructure of Loan was dated 21/02/2015, whereas, the complaint U/s. 138 NI Act was filed on 18/08/2017. There was no mention of said document in the legal notice or complaint filed by complainant, meaning thereby, the complaint was not based on said document. The impugned order resulted in changing the nature of original complaint, which was not permitted in law. It was argued that Ld. Trial Court failed to appreciate that complainant did not assign any reason for failure to place said document on record along with complaint although, it was in power, possession and control of the complainant. The application was filed belatedly, six years after filing of the complaint, without assigning reasonable cause.

3. Ld. Advocate for respondent, on the other hand, argued that Ld. Trial Court rightly allowed the application as it was timely filed at the stage of recording of complainant evidence and there was no denial of genuineness of the document sought to be placed on record through application.

4. At the outset, it is observed that the case at hand is based on issuance of cheque by the revisionist, that got dishonored on presentation to the bank. The gravamen of the offence U/s. 138 NI Act is that accused issued a cheque in discharge of his liability to repay a legally enforceable debt and the cheque got dishonored. The accused did not discharge his liability despite receipt of demand notice. The complaint U/s. 138 NI Act could be filed on the basis of dishonored cheque and averments pertaining to existence of a legally enforceable debt. The documents in support of averments could be filed at the stage of complainant evidence, as documentary proof of averments. This is the doctrine of *facta probanda* and *facta probantia*.

The case filed U/s. 138 NI Act is differentiated from a civil suit for recovery of money; in the civil suit, the plaintiff is required to place on record alongwith plaint the document of contract executed between the parties, to enforce which the civil suit has been instituted.

5. Ld. Trial Court rightly permitted the complainant to place on record additional documents as the onus to prove existence of legally enforceable debt in support of dishonored cheque rested with complainant. The accused i.e. revisionist Sanjeev Kapoor has opportunity to cross-examine complainant's witness in respect of the said document.



6. *There is no illegality, impropriety and unreasonableness in the impugned order. There is no merit in revision petition and it is dismissed.*

TCR be sent back to Ld. Trial Court alongwith copy of this order, for record.

Revision file be consigned to record room on completion of all legal formalities.”

8. What emerges from a conjoint reading of those orders is that the Revisional Courts approached the matter with due regard to the nature of the proceedings and the imperative of ensuring a fair trial. The approach was neither mechanical nor perfunctory, as suggested by the Petitioner, but engaged substantively with the objections raised. Indeed, Section 138 proceedings are not straitjacketed by the pleadings in the complaint alone. The gravamen of such a prosecution lies in the dishonour of a cheque issued in discharge of a legally enforceable debt or liability. The documents evidencing the existence and nature of that liability constitute matters of proof and can be produced at the stage of complainant's evidence, with the leave of the court. The onus to prove the existence of a legally enforceable debt or liability, however, continues to rest with the complainant.

9. The Addendum-cum-Restructure of Loan, sought to be introduced, is not an extraneous document. It is directly linked to the underlying transaction from which the cheque in question arose. Its production does not alter the fundamental nature of the complaint; rather, it explains the background against which the cheque was drawn. In that sense, the Revisional Courts rightly reasoned that the attempt to place this document on record does not amount to filling a lacuna but is consistent with the complainant's obligation to prove the substratum of liability.



10. The element of delay, though not insignificant, cannot by itself be determinative. Crucially, the stage of complainant's evidence had not yet commenced. The Petitioner retains the full opportunity to cross-examine the complainant on the Addendum, to test its authenticity and probative value. This safeguard addresses any prejudice that might otherwise be apprehended. The Petitioner's challenge, therefore, premised more on a technical plea than on demonstrable unfairness or miscarriage of justice.

11. The approach of the Revisional Courts is aligned with the principle that a criminal trial is a search for truth, and that procedural discretion ought to be exercised to further that purpose, provided the rights of the accused are not compromised.

12. For the foregoing reasons, the Court finds no justifiable reason to interfere with the impugned orders under Section 528 BNSS.

13. Accordingly, the present petitions are disposed of along with pending applications.

14. All rights and contentions of the parties are left open.

SANJEEV NARULA, J

SEPTEMBER 16, 2025/ab