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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 2956/2025**
M/S HAMSA TRADERSPetitioner

versus

STATE OF NCT OF DELHI AND ANR.Respondents
With

W.P.(CRL) 2957/2025, W.P.(CRL) 3011/2025, W.P.(CRL) 3026/2025, W.P.(CRL) 3027/2025 *with*

CRL.M.A. 27441/2025, CRL.M.A. 27446/2025, CRL.M.A. 27876/2025, CRL.M.A. 28010/2025, CRL.M.A. 28012/2025

For Petitioner: Mr. Ranjeet Kumar Jha and Mr. Manjeet Kumar Jha, Advocates.

For Respondents: Mr. Rahul Tyagi, ASC (Crl.) with Mr. Sangeet Sibou, Mr. Shubham Goyal, Mr. Anshu Chothwani and Mr. Harsh Kumar, Advocates for State in Item Nos. 30, 31 & 32.

Mr. Amol Sinha, ASC (Crl.) with Mr. Kshitiz Garg, Mr. Ashvini Kumar, Mr. Nitish Dhawan, Ms. Chavi Lazarus and Ms. Sanskriti Nimbekar, Advocates for State in Item Nos. 33 to 35.

Mr. Adarsh Saini, Advocate for the Complainant.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
11.12.2025

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1. These petitions invoking Articles 226 and 227 of the Constitution of



India seek this Court's intervention in proceedings conducted before JMFC (NI Act), North District, Rohini Courts, in Complaint Cases No. CC NI ACT 1480/2023, CC NI ACT 1824/2023, CC NI ACT 1830/2023, CC NI ACT 1503/2023 and CC NI ACT 1682/2023, titled "***M/s Kumar Brothers v. M/s Hamsa Traders & Ors.***". The Petitioners assail the orders dated 26th May, 2025 and 5th August, 2025, and also the judgments of conviction dated 23rd August, 2025 on the ground of violation of the principles of natural justice, integrity of trial amongst several other grounds. Finding *prima facie* merit in the contentions urged, this Court had directed the Trial Court to defer the order on sentence. The petitions are now being considered for final disposal.

2. The impugned orders and judgments under challenge arise from separate complaints pertaining to distinct cheques. However, the parties are common, the transactions form part of the same commercial arrangement, and the challenges raised are substantially overlapping. The petitions are, therefore, being disposed of by a common judgment. For convenience, the factual narrative is drawn from Complaint Case No. CC NI ACT 1480/2023, with the clarification that the proceedings in the remaining matters are materially identical, save and except for the particulars of the cheques, the corresponding dates of presentation and dishonour, and the cheque-wise amounts reflected in each complaint.

3. The complainant instituted five complaints under Section 138 of the Negotiable Instruments Act, 1881,¹ premised on the alleged dishonour of cheques issued by the Petitioner firm, M/s Hamsa Traders. Upon service of summons, the Petitioner, along with its proprietor, Mr. Sanath Kumar,



appeared and was admitted to bail on 26th May, 2025. The Trial Court proceeded to frame notice under Section 251 of the Code of Criminal Procedure, 1973,² recorded the plea of defence and concluded with admission and denial under Section 294 CrPC.

4. The notice was framed in the following terms:

“NOTICE U/S 251 Cr. P.C.”

It is alleged against you Sanath Kumar, Prop. of M/s Hamsa Traders S/o Sh. Maheshwara Murthy (Mobile No. 9880890028), that in discharge of your liabilities/financial obligations towards complainant, you had issued cheque bearing No. 003920 dated 25.06.2023 of Rs. One Crore/ drawn on Union Bank of India, Hunasaghatta branch, Karnataka-577547 under your signatures in favour of the complainant, however, on presentation your banker returned the cheque back unpaid with remarks "Funds Insufficient" vide return memo dated 28.06.2023. It was followed by written demand notice dated 28.06.2023 advising you to pay the cheque amount, however, despite service of such demand notice, you failed to return the cheque amount and thereby committed an offence punishable u/s 138 N.I. Act, 1881 and within the cognizance of this Court.

Show cause why you should not be punished for aforesaid offence

The notice has been read over and explained to the accused in vernacular and he is asked as under:-

Q: Whether you have understood the notice put to you?

A: Yes.

Q: Do you plead guilty or claim trial?

A: I do not plead guilty and claim trial.”

5. On the same date, admission denial of documents was carried out to the following effect:

“17.05.2025

ADMISSION DENIAL OF DOCUMENTS UNDER SECTION 294 OF Cr. P.C.

Statement of accused Sanath Kumar, Prop. of M/s Hamsa

¹ “the NI Act”

² “Cr.P.C.”



Traders S/o Sh. Maheshwara Murthy (Mobile No. 9880890028).

Without Oath

Q1. Whether you issued cheque bearing No. 003920 dated 25.06.2023 of Rs. One Crore/-drawn on Union Bank of India, Hunasaghatta branch, Karnataka-577547 to the complainant?

Ans. Yes.

Q2. Do you admit your signatures on the cheque or not? Ans. Yes. Rest of the particulars were also filled by me.

Q3. Whether it is correct that the cheque was dishonoured on presentation? Ans. It is a matter of record.

Q4. Whether you received the legal notice dated 28.06.2023 ?

Ans. Yes. The address mentioned is correct.

Q5. Do you wish to say anything in your defence?

Ans. I gave the cheque in question as security cheque to the complainant as I was in business with the complainant. I owe around Rs. 4 crores to the complainant out of which I have paid Rs. One crore, 14 lacs. I am ready to pay the rest amount if some time is given. The complainant has filed seven cases against me and before the undersigned and two cases in another State."

6. In view of the above, the Trial Court concluded that there was no triable issue and that the matter could be tried summarily and proceeded to refer the parties to mediation. The order dated 26th May, 2025, reads as follows:

"Offence being bailable, accused is admitted to bail subject to furnishing personal bonds and surety bonds in a sum of Rs. 20,000/-. Time granted till the next date of hearing.

It is submitted by Ld. counsel for accused that he has received the copies of complaint and documents.

In the opinion of this Court, there is prima-facie case against the accused person for offence punishable under Section 138 N. I. Act and the contentions of defence can only be decided by way of trial. Hence, notice for offence punishable under Section 138 N.I. Act put to accused person to which he pleaded not guilty and claimed the trial. Plea of defence of accused side also recorded. The plea as was recorded was viewable to both the parties via screen share. Ld. Counsel for the accused is directed to furnish duly signed notice and plea of defence through email ID of the court.

Admission/ denial of documents as per Section 294Cr.P.C. also recorded and thereby formal witnesses are dropped from the list of witnesses.



Considering the fact that no plausible defence has been taken by the accused pursuant to framing of notice and as no cogent material is available with the accused to be put to the complainant in cross-examination, this is not a fit case where an opportunity must be given suo moto to the accused for cross-examination u/s 145(2) NI Act. Further, since the issuance of cheque, signatures on the cheque, receipt of legal notice, liability to the extent of cheque amount is already admitted, there is no triable issue on which evidence is required to be led. Accordingly, matter is tried summarily.

Considering the facts in the present matter, the case is fit for reference to the mediation center for settlement.

It appears that there are elements of settlement in this matter. The parties are, therefore, referred to Mediation Center for 02.06.2025 at 2.00p.m.

Both the parties are directed to report to Mediation Center on above mentioned date at 2.00p.m. Any non-appearance in the Mediation Center shall result in coercive measures by the court. Both the parties are directed to appear at the workstation at Rohini court and signed the mediation form within two days from today.

It is clarified that in case of failure of settlement, matter shall be listed for final arguments/ Judgment.

Put up for judgment on 05.08.2025."

7. It thus emerges that the proprietor of the Petitioner firm specifically pleaded 'not guilty' and expressly claimed trial. Further, even while asserting that the cheque was issued as a "security cheque", he admitted issuance of the cheque, admitted signatures (and also that the remaining particulars were filled by him), admitted receipt of the statutory notice, and further stated that about ₹4 crores were outstanding, out of which ₹1,14,00,000/- had already been paid, coupled with an expressed willingness to clear the balance if time were granted. These statements, on their face, indicate that the defence was not a bare denial, but a version that required evaluation within the framework of Section 138 proceedings.

8. That said, on 5th August, 2025, the Trial Court recorded that the mediation proceedings has not fructified and passed the following order:



“05.08.2025

(Proceedings conducted through Cisco Webex)

Present: Sh. Rahul Rai, Ld. Counsel for the complainant along with complainant.

Sh. Ranjeet Kumar Jha, Ld. Counsel for the accused.

Matter is at the stage of judgement.

Ld. Counsel for the accused has submitted that accused could not join the VC of the court due to technical glitch.

Further, Ld. Counsel for the accused has submitted that the notice framed u/s 251 Cr.P.C has been wrongly framed.

Heard. Perused. Considered.

The notice framed on the last date of hearing consist of the judicial record which is framed in the presence of the undersigned and in the presence of Ld. Counsel for the complainant.

Hence, the plea of the Ld. Counsel for the accused is cannot be considered. Further, on the last date of hearing the matter was referred to mediation. Report from mediation received with remarks not fit for settlement. Ld. Counsel for the accused is directed to ensure the presence of the accused at 02:00Pm.

Be awaited.

At 02:30 PM

Present: Sh. Rahul Rai, Ld. Counsel for the complainant along with complainant. None for the accused.

Despite multiple calls nobody answered on behalf of the accused.

Looking at the conduct of the accused it seems that the accused has deliberately avoiding the appearance before the court.

However, it is clear that the accused and his Ld. Counsel is well aware about the proceedings of the court and are misusing the platform of the digital court to delay the process.

To ensure the presence of the accused, issue NBWs against the accused through SHO concerned.

Put up for appearance of accused/judgment on 22.09.2025.”

9. Thereafter, applications were moved for cancellation of the non-bailable warrants. These applications were taken up on 23rd August, 2025. It is the Petitioner’s case that on that date members of the Bar were abstaining from court work, and the matters were listed only for disposal of the applications seeking cancellation of warrants, not for pronouncement of



judgment. Notwithstanding this, after cancelling the warrants on payment of costs, the Trial Court proceeded to pronounce judgments of conviction on the very same day. The relevant extract from the order dated 23rd August, 2025 is reproduced below:

“Matter is taken up today for cancellation of NBWs issued against the accused.

Ld. Counsel for the accused has submitted that the accused and himself could not appear on the last date of hearing due to poor network connectivity.

As the accused has appeared today through VC NBWs are cancelled subject to cost of Rs.1,000/- to be deposited in DLSA, North, Rohini Courts, Delhi.

Further, the matter is at the stage of pronouncement of judgment.

Date already given stands cancelled and matter is taken up today.

Vide Separate judgment accused i.e Sanand Kumar is convicted in the matter.

Ld. Counsel for the accused has opposed the pronouncement of judgment on the ground that Delhi Bar Association has called a strike and his appearing only for the application today.

Heard. Considered.

As the accused is appearing today and as per the law, presence of the accused is mandatory for pronouncement of judgment.

Presence of the counsel is nowhere required.

Further, the counsel is appearing through VC and has only requested for not mark his attendance.

Put up on order on sentence on 22.09.2025.”

10. The Court has considered the submissions advanced and has perused the record of the proceedings before the Trial Court. Since a judgment of conviction under Section 138 of the NI Act, ordinarily carries a statutory remedy of appeal, the threshold question is whether these petitions merit exercise of jurisdiction under Articles 226 and 227 of the Constitution.

11. The existence of an alternate remedy does not operate as an absolute bar to the exercise of writ or supervisory jurisdiction, particularly where the challenge is not directed to the merits of the conviction but to the manner in



which the proceedings have been conducted, resulting in an alleged denial of fair hearing or failure of justice.³ The present petitions, therefore, warrant examination only to the extent of assessing the procedural propriety of the trial, and not the correctness of the findings on merits.

12. In that backdrop, the above sequence of events is crucial. The orders show that the Trial Court had earlier listed the matter for “appearance of accused/judgment” on 22nd September, 2025. On 23rd August, 2025, the case was taken up for cancellation of non-bailable warrants. The warrants were cancelled on payment of costs. Thereafter, the date already fixed was cancelled, and the Trial Court proceeded to pronounce judgment of conviction on the same day. This abrupt advancement of the stage of pronouncement, particularly when counsel appeared only to press the application for cancellation and members of the Bar were abstaining from court work, deprived the accused of an effective opportunity to address issues bearing on the legality and regularity of the trial process.

13. The right to a fair trial is not exhausted by securing the physical presence of an accused at the moment of pronouncement. Fairness also inheres in the predictability and transparency of the process, especially where the record itself shows that the matters had been kept for pronouncement on a later date. When a court advances the stage of pronouncement to a date on which the listing was for a different purpose, the justification must be demonstrably consistent with procedural fairness and must not create an impression that the outcome was being rushed through without affording a meaningful opportunity to the accused to pursue such

³ *Baburam Prakash Chandra Maheshwari v. Antarim Zila Parish Ad Now Zila Parishad*, 1968 SCC OnLine SC 45; *Ghanashyam Mishra & Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*, (2021)



procedural requests as are available in law.

14. It is equally material that, on 26th May, 2025, the Trial Court treated the matter as one where “no triable issue” survived and declined to afford an opportunity for cross-examination under Section 145(2) of the NI Act on the reasoning that no cogent material was available with the accused to be put to the complainant in cross-examination. That approach sits uneasily with the record of the accused’s plea. The accused did not plead guilty. He claimed trial. He also stated, at the stage of admission and denial, that the cheque had been issued as a “security cheque” in the course of business dealings. Whatever may ultimately be the merit of that defence, it is not a plea that can be brushed aside as non-existent. A plea of security cheque, the nature of the underlying arrangement, the point at which liability crystallised, and whether the cheque was presented in discharge of a legally enforceable debt are matters that ordinarily require evidence. To foreclose cross-examination at the threshold, solely on an assessment that the defence is “not plausible”, risks converting summary procedure into summary conviction.

15. The statement recorded under Section 294 Cr.P.C. also cannot carry the weight placed on it. Admissions under Section 294 are recorded to narrow the area of contest and to dispense with formal proof of documents where admissible. They are not a substitute for trial. More importantly, the statement was recorded without oath, and its scope was limited. The accused acknowledged issuance of the cheque and receipt of notice, but he also asserted that the cheque was given as security. The acknowledgement of business dues, without a clear and unequivocal admission that the cheque in question was issued in discharge of a legally enforceable debt or liability as



on the date of its issuance or presentation, cannot, at the interim procedural stage, be treated as an admission of the offence itself. Treating such a statement as conclusive, and then using it to deny cross-examination, is procedurally untenable.

16. The NI Act does permit summary trial, but summary trial does not mean truncated fairness. Section 143 read with Section 145 of the NI Act is designed to secure expedition without sacrificing the essentials of due process. Section 145(2) exists precisely because the complainant's evidence is tendered on affidavit. Where an accused does not plead guilty and seeks to test the complainant's version, the request for cross-examination cannot be rejected on the premise that the defence appears weak. The strength or weakness of the defence is a matter for adjudication after evidence, not a basis to deny the very instrument by which evidence is tested.

17. In these circumstances, the manner in which the proceedings progressed, beginning with the refusal to permit cross-examination on the reasoning that no triable issue survived, and ending with pronouncement of judgment on the date fixed for cancellation of warrants by cancelling the earlier date for judgment, discloses procedural infirmities that go to the root of a fair hearing. These are not matters that can be left to be corrected only in appeal as issues of mere appreciation. The supervisory jurisdiction under Article 227 is meant to keep the process within the bounds of law and fairness. Interference is, therefore, warranted, though strictly confined to restoring procedural regularity and not by returning findings on merits.

18. Counsel for the complainant argues that the admissions on record demonstrate the Petitioner's liability. At the same time, he fairly states that the complainant would have no objection if the judgments are set aside and



the matters are remanded, provided the proceedings are conducted expeditiously and are not permitted to drift.

19. In view of the discussion above, and in light of the stand taken by the complainant, the judgments of conviction dated 23rd August, 2025, passed in all the cases, are set aside. The matters are remanded to the Trial Court for fresh proceedings from the stage of cross-examination of the complainant under Section 145(2) NI Act. Accordingly, the following directions are issued:

- (i) Counsel for the Petitioner shall conclude the cross-examination of the complainant's witness within two effective dates, subject to the schedule fixed by the Trial Court.
- (ii) Both sides shall cooperate in the expeditious conduct of the proceedings. If any party seeks an adjournment without sufficient cause, the Trial Court shall be at liberty to pass appropriate orders, including imposition of realistic costs, in accordance with law.
- (iii) After completion of the complainant's evidence, the Trial Court shall fix timelines for the remaining stages, including statement of the accused and defence evidence, if any, and shall endeavour to conclude the trial with due expedition.

20. The parties shall appear before the Trial Court on 3rd January, 2026. Counsel for the complainant states that the complainant shall remain present for recording of evidence. The Trial Court is requested to commence proceedings on that date itself.

21. It is clarified that this order does not express any opinion on the merits of the rival case. All rights and contentions are left open to be urged before the Trial Court.



22. The petitions, along with pending applications, are disposed of in the above terms.

SANJEEV NARULA, J

DECEMBER 11, 2025

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