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

+ CRL.M.C. 7086/2025 & CRL.M.A. 29725/2025 STAY

CRL.M.A. 29726/2025 EXMP.

MOHIT KUMAR

.....Petitioner

Through: Mr. Yuvraj Jaiswal, Mr. Shivam Patil,
Advts.

Versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Digam Singh Dagar, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

08.10.2025

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1. The present petition under Section 528 of Bhartiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 Cr.P.C) has been filed seeking quashing of the summoning order dated 16.11.2022 and the criminal complaint in Case No. CC NI Act 5036/2022 instituted by Respondent No.2, Small Farmer Agri-Business Consortium (SFAC).

2. It is pleaded that M/s DSM Poultry & Feeds through its partner Mr. Mohit Kumar entered into an agreement with Respondent No.2 on 01/10/2015. Through the agreement M/s DSM Poultry & Feeds availed finance of Rs. 30.14 Lakhs in the form of Venture Capital Assistance (VCA) amount for setting up a Unit for Poultry Farm. Accordingly the VCA amount was sanctioned and released in the account of M/s DSM Poultry &



Feeds. As per agreement, the VCA amount was to be reimbursed to the Respondent No.2 as per the terms & condition of the agreement.

3. M/s DSM Poultry & Feeds to discharge their part liability issued a cheque bearing No. 887430 dated 28.02.2022 for an amount of Rs. 7,68,979/- drawn on Punjab National Bank, Amroha (J.P Nagar), Uttar Pradesh. This cheque was deposited by Respondent No.2 in their bank for clearance. However, the bank has returned the aforementioned cheque along with a Cheque Return Memo report dated 03.03.2022 with the remark for the reason “Insufficiency of funds.” However, the cheque was dishonoured due to ‘insufficiency of funds’ and a complaint under Section 138 of NI Act filed by the Respondent No.2/Complainant.

4. Quashing of the summoning order dated 16.11.2022 is now being sought *inter alia* on the grounds the learned Magistrate acted mechanically without applying judicial mind; the complaint is time-barred and no condonation of delay was granted; no legal notice was served on the Petitioner as required under Section 138 of the Negotiable Instruments Act; no specific role or responsibility of the Petitioner in the company’s finances or the issuance of the dishonoured cheque is alleged; the Petitioner was neither a signatory to the cheque nor involved in any related meetings, and there is no contractual privity with Respondent No.2 under the alleged VCA agreement; the requirements of Section 141 NI Act are not met and continuation of the proceedings would cause grave injustice and irreparable damage to his reputation.

5. In the aforesaid backdrop, I have heard learned counsel for the petitioner, learned APP for the State and perused the material available on record.



6. At the outset, the perusal of the case file would show that not only the instant petition is highly belated as impugned herein is an order dated 16.11.2022 passed way back by the learned Trial Court, but even otherwise, the aforesaid order was revisable. It appears that having not chosen to file any revision petition in order to bypass the hindrance of limitation, the present petition has been filed under Section 528 of BNSS, 2023.

7. I find no ground to interfere with the impugned order on that ground alone. The petition is accordingly dismissed. However, the dismissal of this petition shall not come in the way of the defence to be taken by the petitioner at the appropriate stage before the learned Trial Court. All the issues raised herein are left open to be adjudicated by the learned Trial Court.

ARUN MONGA, J

OCTOBER 8, 2025/acm