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

\+ CRL.M.C. 8727/2025 & CRL.M.A. 36439-36442/2025

SALIL TALWAR .....Petitioner

Through: Mr. Aakash Sachdeva & Ms. Nutan Sinha, Advs.

versus

SHAM CHARAN ARORA .....Respondent

Through: Appearance not given.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **08.12.2025**

1. This Petitioner, an accused in complaint case no. 4599/2017 titled *"Sham Charan Arora vs. Talwar Jewellers and Ors."* under Section 138 of the Negotiable Instruments Act, 1881,[1] assails order dated 7th August, 2025 passed by JMFC (N.I. Act)-04, West District, Tis Hazari Courts, Delhi. By the impugned order, the Trial Court, while allowing the Petitioner's request to examine certain defence witnesses, rejected the request to summon proposed witness nos. 3, 4, 6 and 8.

2. The proposed witnesses as per the list as under: -

> *"3. Concerned staff / clerk, from State Bank of India, DE-83 Tagore Garden Branch New Delhi, with original cheques No. 011096, 011097, 011098 & 335507 issued by M/s Talwar Jewellers from A/c No. 33565970426 and statement of account No. 33565970426 from 01.10.2014 to 31.12.2015 and*

[1] "the NI Act"

01.10.2016 to 30.10.2016 and 01.01.2017 to 30.09.2017 duly certified by the bank as per The Bankers Book Evidence Act ,1891.
4. Concerned staff / clerk from Axis bank, Rajouri Garden Branch New Delhi - 110027, with copy of cheques No.232339 and 232345 issued by M/s Talwar Jewellers from A/c No. 066010200017231 and statement of account No. 066010200017231 from 01.01.2015 to 31.12.2015 and 01.01.2017 to 30.09.2017 duly certified by the bank as per The Bankers Book Evidence Act ,1891.
6. Concerned staff / clerk from the court of Sh. Shashank Nandan Bhatt, Ld. JMFC, West District, Tis Hazari Courts, Delhi with complete Case file of Case No. Ct. Cases - 5131/2018, titled as Siddharth Talwar Vs. Salil Talwar."

3. The reasons for rejecting the Petitioner's request are apparent from the impugned order, which is extracted below: -

"Submissions heard on behalf of both parties on list of witnesses filed.

The primary defence of the accused no. 4 is that he was not incharge of day to day affairs of the accused partnership firm at the time of issuance of dishonour of the cheque in question and that the cheque has been misused by the complainant against him and the partnership firm in connivance with accused no. 3.

Witness at Sr. no. 2 i.e. Vinod Choudhary is allowed as he is required to prove that the accused no. 4 was a sleeping partner and is essential to prove the defence of accused no. 4.

Similarly witnesses mentioned at Sr. no. 5 and 7 are also allowed as they appear essential to prove the defence of the accused no. 4.

Witness mentioned at Sr. no. 3 and 4 are required to prove that accused no. 3 has withdrawn amount from the account of partnership firm through self cheques. This court if of the opinion that the said witnesses are not relevant to the prove the defence of the accused no. 4 and therefore disallowed.

Similarly, witness at Sr. no. 6 is required to prove that accused no. 3 has opened a factory, this witness is again is not relevant to the prove the defence of the accused no. 4 and *therefore disallowed.*

Accused no. 4 seeks permission to examine the witness at Sr. no. 8 to disprove the ITR's filed by the complainant as the balance sheet attached in Ex.CW1/X2 are alleged to be false and fabricated.

It is submitted on behalf of the complainant that the balance sheet filed alongwith Ex.CW1/X2 for the assessment year 2014-15, 2015-16 and 2016- 17 was not filed alongwith the ITR.

Considering the submissions made witness at Sr. no. 8 is disallowed as the complainant himself has admitted that he has not filed the balance sheet with the ITR. Therefore, the witness from ITR cannot be expected to prove the genuineness of the balance sheet. Therefore, examination of witness at Sr. no. 8 is disallowed as being irrelevant.

Accordingly, accused no. 4 is granted permission to examine himself and witnesses at Sr. no. 2, 5 and 7 as defence witnesses. (P, Singh)

It is submitted on behalf of the complainant that he wishes to cross examine the accused no. 3 and 4 only after the examination in chief of both accused no. 3 and 4 is recorded. JMFC (N.I. Act)-04/West/Delhi 07.08.2025

Permission granted.

Accused no. 3 and 4 are directed to appear physically on the NDOH. Put up for examination in chief of accused no. 3 and 4/FP on 08.09.2025."

4. Counsel for the Petitioner submits that witnesses at serial numbers 3 and 4 are necessary to establish that accused number 3, who is the elder brother and partner of M/s Talwar Jewellers, had withdrawn amounts from the firm's account through self-cheques.

5. As rightly observed by the Trial Court, witnesses 3 and 4 are not relevant to the defence of the Petitioner. This conclusion warrants no interference, since the said withdrawals have no *prima facie* bearing on the

Petitioner's liability under Section 138 of the NI Act in light of the defence taken at the stage of notice under Section 251 of the Code of Criminal Procedure, 1973.

6. The witness at serial number 6, who is sought to be summoned to prove that accused number 3 had opened a factory, similarly has no bearing on the Petitioner's own liability for the dishonour of the cheque. The Trial Court was therefore justified in declining the request.

7. With respect to witness number 8, the Trial Court has also given valid reasons. Since the complainant has admitted that the balance sheets relied upon were not filed along with the ITRs, that stand binds the complainant. Summoning the ITR records to test the genuineness of balance sheets that do not form part of those ITRs is irrelevant in light of this admission.

8. In view of the above, the impugned order declining the Petitioner's request to summon proposed witness numbers 3, 4, 6 and 8 warrants no interference.

9. Disposed of along with pending applications.

SANJEEV NARULA, J

DECEMBER 8, 2025/*ng*