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

\# **CNR No. DLHC010490412026**

\+ CRL.M.C. 7655/2026 CRL.M.A. 31923-31924/2026

KULDEEP SHARMA .....Petitioner

Through: Mr. Sunil Dalal, Sr. Adv. with Mr. Jhujhar Singh, Mr. Bhushan Arora, Mr. Dhruv Gupta, Mr. Shreyas Moliti, Mr. Bharat Khurana and Mr. Mukul Malik, Advs. with petitioner in person

versus

STATE GOVT OF NCT OF DELHI AND ORS .....Respondents

Through: Mr. Naresh Chahar, APP for the State SI Meeta, PS Mukherjee Nagar

Mr. Hitender Kapur and Mr. Aashutosh Deol, Advs. for R-2

CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

O R D E R

% 09.10.2026

CRL.M.A. 31924/2026 (for exemption)

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

CRL.M.C. 7655/2026

3. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, [‘BNSS’] seeking setting aside of the order dated 28.09.2026 passed by the learned ASJ, North, Rohini Courts, Delhi, in Criminal Revision No. 118/2025, titled **Kulwant Singh Bagga v. Prince**

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Kapoor & Ors. ['impugned order'] whereby the revision preferred by Respondent No. 2 was allowed, and the SHO, P.S. Mukherjee Nagar, was directed to register an FIR against the accused person on the complaint submitted by Respondent No. 2.

4. The complaint names the Petitioner and Respondent No.3 as the accused persons.

5. Briefly stated, the facts set out in the petition pertaining to the complaint filed by Respondent No.2/complainant are as follows:

5.1. Respondent No. 2, i.e., the complainant alleges that the Petitioner, who is a sub-inspector with Delhi Police, introduced him to Respondent No. 3 i.e. a businessman who deals in diamond and gold jewellery.

5.2. It is stated that Petitioner represented that he himself had invested money in jewellery business of Respondent No. 3 and had earned profit.

5.3. It is stated that Petitioner represented to the Respondent No.2/complainant that Respondent No. 3 offers jewellery at lower value than others, and hence it is profitable to buy jewellery from Respondent No. 3.

5.4. It is stated that Respondent No. 2 paid an amount of Rs. 32 lakhs in cash to Respondent No. 3 towards purchase of diamond jewellery. It is stated that Rs. 9 lakhs was paid on 03.03.2024, Rs. 8 lakhs on 02.04.2024 and Rs. 15 lakhs on 18.04.2024.

5.5. According to Respondent No. 2, neither the jewellery was supplied

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nor the amount was refunded by Respondent No. 3, and instead both Petitioner and Respondent No. 3 extended threats to Respondent No. 2 that they would implicate him in false criminal cases if he persisted with the demand for refund of Rs. 32 lakhs.

5.6. The Respondent No. 2 relied upon WhatsApp chats and transcript of audio recording of telephone calls dated 16.11.2023 and 23.05.2024 to prove the payment of money and its acknowledgement by Respondent No. 3 and the Petitioner herein.

5.7. Following no action on complaints dated 08.06.2024 and 19.06.2024 to the police authorities, Respondent No. 2 filed an application under Section 175(3) BNSS before the competent Court for registration of the FIR.

5.8. An Action Taken Report ['ATR'] was filed on 01.05.2025. The learned ACJM dismissed the application on 01.05.2025, observing that the evidence was within the complainant's reach and police investigation was not required. It was observed that complainant will have an opportunity to establish his complaint under Section 223[1] of BNSS. This dismissal was subsequently challenged in the revision proceedings.

6. The learned Sessions Court *vide* order impugned order dated 28.09.2026 has reversed the order of the learned ACJM and issued the directions for registration of FIR against both the accused i.e., Petitioner and Respondent No. 3.

7. Mr. Sunil Dalal, learned senior counsel for the Petitioner, contends

[1] Corresponding to Section 200 of Cr.P.C

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that the Petitioner's role was, at its highest, confined to providing a reference of Respondent No. 3 to the complainant. He states that the Petitioner neither induced Respondent No. 2 nor participated in the alleged transactions. He submits that the call recordings dated 16.11.2023 and 23.05.2024 relied upon by Respondent No. 2 do not disclose any representation or assurance on the Petitioner's part and that the allegations against Respondent No. 3 cannot be attributed to him. He further contends that the Revisional Court wrongfully interfered without identifying any illegality, perversity or material irregularity in the order dated 01.05.2025 passed by the learned ACJM.

8. He states that payments were made by the complainant to Respondent No. 3 and therefore cause if any, of the complainant is only against the said accused.

9. He relies upon the judgment of Supreme Court in **Amit Kapoor v. Ramesh Chander and Another**[2] to contend that the revisional jurisdiction of the learned Sessions Judge was limited and there was no scope for interference with the order dated 01.10.2025. He also referred to provisions of Section 175(3) of BNSS and states that learned ACJM acted appropriately while rejecting the said application.

10. He also submits that since the Respondent No. 2 is alleging that he transacted in cash amounts the matter ought to be referred to jurisdictional Tax officer.

11. In reply, learned counsel for the complainant states that Petitioner and

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Respondent No. 3 are collusive. He states that before the learned Sessions Court they were represented by a common counsel. He states that it is the contention of the complainant that the *modus operandi* of these parties is that Petitioner herein induces third parties to invest with Respondent No. 3 and also acts as the recovery agent of Respondent No. 3.

12. He submits that the Petitioner's submission that he merely introduced the complainant to Respondent No. 3 and had no knowledge of the investment of Rs. 32 lakhs is falsified by the transcript of the audio recordings, wherein he has acknowledged the payment of monies by complainant to Respondent No. 3 in his presence.

13. He states that no prejudice has been caused to the Petitioner herein by the impugned order, as after investigation if no role of the Petitioner is established in the cheating, the police can always file a closure report *qua* him. He refers to the judgment of Supreme Court in **Vinod Kumar Pandey & Anr. v Seesh Ram Saini & Ors[3].**

14. He states that the amount of Rs. 32 lakhs is duly accounted for in the Income Tax returns as cash in hand and is therefore legitimate tax paid money.

15. He states that the Petitioner and co-accused/Respondent No. 3 were represented through common counsel before the learned Sessions Court in CRL. REV. No. 118/2025

16. He further contends that this petition is not maintainable in view of

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[2] (2012) 9 SCC 460, refer to Paragraphs 12 and 13

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Section 438(3) of BNSS, which corresponds to 397(3) of Code of Criminal Procedure, 1973 ['Cr.P.C.'].

17. In reply, learned counsel for the Petitioner does not dispute that Petitioner and co-accused/Respondent No. 3 were represented through common counsel before the learned Sessions Court in CRL. REV. No. 118/2025.

18. Mr. Chahar, learned APP states on instructions from the I.O. that FIR has been prepared and has been sent to the legal cell for vetting and is likely to be registered over the weekend.

19. This Court has heard the parties and perused the record.

20. The facts giving rise to the disputes have already been noted hereinabove.

21. In the ATR dated 01.05.2025, as regards the role of the Petitioner herein, the I.O. has recorded that Respondent No.2/complainant stated that in March 2014 the Petitioner introduced him to Respondent No.3 and stated that Respondent No. 3 is running a diamond business and he (Petitioner himself) has also invested money and earned profit and further induced the Respondent No.2/complainant to invest in Respondent No.3's business, by assuring the complainant that his money will remain safe and the Respondent No. 2/complainant will get the diamond jewellery worth the amount invested. Upon this inducement, the Respondent No. 2/complainant invested an amount of Rs. 32 lakhs in cash with Respondent No. 3.

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[3] 2025 SCC OnLine SC 1951 at Paragraph 36

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Whereas in the ATR, the I.O. has recorded the Petitioner stated that he had developed good relations with the Respondent No. 2/complainant over time, and one day the Respondent No. 2/complainant asked the Petitioner for the number of the Respondent No.3 for the purpose of starting business, upon which the Petitioner shared the contact details of Respondent No.3 with the Respondent No.2/complainant; after this, the Petitioner has *no idea* about the business deal that has taken place between Respondent No.2/complainant and Respondent No.3.

22. The Respondent No. 2 has during the hearing before this Court read out the extracts from the call recordings dated 16.11.2023 and 23.05.2024 with the Petitioner herein, the said recordings *prima facie* bear out that the Petitioner was aware of the transaction of payment of Rs. 32 lakhs between Respondent No.2/complainant and Respondent No. 3. However, in his statement before the I.O. reported in the aforesaid ATR, Petitioner has outrightly denied any knowledge of the payment by complainant to Respondent No.3. The stand of the Petitioner is ex-facie at variance with the contents of the audio recording, if the same are true and correct.

23. Before this Court the Petitioner has sought to distance himself from Respondent No. 3 and sought to allege that the transaction between complainant and Respondent No. 3 is independent, without any concern of the Petitioner. However, the submission of the learned counsel for Respondent No. 2 that before the learned Sessions Court Petitioner and Respondent No. 3 were represented by common counsel shows that the said contention does not have any merit.

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24. The transcript of audio recordings, if correct show that Petitioner was aware about the transaction of payment by Respondent No. 2 to Respondent No. 3. However, Petitioner has outrightly denied his knowledge to the I.O. on questioning, which is then misleading. Then again, the Petitioner has appeared alongside Respondent No. 3 before the learned Sessions Court. This flip-flop and his alliance with Respondent No. 3 give some credence to the allegations of the Respondent No. 2/complainant as regards the said parties acting in tandem.

25. In this case since the Respondent No. 2/complainant contends that he has paid a sum of Rs. 32 lakhs to Respondent No. 3 on promise of delivery of jewellery and no jewellery has been given to him and instead he is being threatened with implication in false cases if he persists with the demands, demonstrates that this is not a case of a breach of contract but a case of cheating. The submission of Petitioner that this is merely a civil dispute therefore is not meritorious.

26. The learned Sessions Judge in the impugned order at paragraph nos. 10 to 13 has given cogent reasons for interfering with the order of the learned ACJM dated 01.05.2025. In fact, the order of the learned ACJM dated 01.05.2025 consists of glaring error when it makes reference to alleged CCTV footage and MLC, which does not arise in the facts of this case.

27. This Court is therefore satisfied that there is no ground made out for interference in the impugned order dated 28.09.2026.

28. The petition and pending application are dismissed.

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29. It is clarified that the investigation shall be carried out by the I.O. without being influenced by the observations made in this order as the same have been recorded only for the purposes of deciding this petition.

MANMEET PRITAM SINGH ARORA, J

OCTOBER 9, 2026/hp/AJ

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