



2025:DHC:8060



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

% ***Date of Decision: 10.09.2025***

+ **C.R.P. 250/2025 & CM APPL. 55036/2025**

JACKIE VERMA & ORS.Petitioners

Through: Mr. Ayush Shrivastava, Mr.
Krishnesh Bapat & Ms. Sneha P.
Mandal, Advs.

versus

SANJAY SHARMARespondent

Through:

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. This Court by an order dated 02.09.2025 passed the following directions:

"3. The present Petition has been filed under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] impugning the order dated 15.07.2025 passed by the learned Trial Court [hereinafter referred to as "Impugned Order"]. By the Impugned Order, the Application under Order VII Rule 11 of the CPC filed by the Petitioners/Defendants has been dismissed.

4. Learned Counsel for the Petitioners has taken two grounds of challenge in the Application under Order VII Rule 11 of the CPC. Firstly, he submits that the plaint is barred by law citing the Section 269SS and 269ST of the Income Tax Act, 1961 since the loans were given of an amount in the sum of Rs. 20,000/-. The second ground that has been taken by the Petitioners was that there is no cause of action to file the plaint and that the plaint should be rejected under Order VII Rule 11 of the CPC.

5. Concededly, the plaint that has been filed is a suit for recovery of money.

6. It is the case of the Plaintiff in the plaint that the loan in the sum of Rs. 12,00,000/- was taken by the Defendants from the Plaintiff since they



had friendly relations with each other. The loan amount was, however, not returned and instead two cheques were issued both dated 24.12.2022 totalling in the sum of Rs. 11,00,000/- and the balance amount of Rs.1,00,000/- was also agreed to be repaid thereafter. The cheques once deposited were dishonoured. Since, the amounts were not returned, the suit for recovery in the sum of Rs. 11,65,000/- along with pendente lite and future interest has been filed.

7. It is apposite to set out the relevant extract of the plaint in this behalf below:

"2. That defendants' father Late Shri Roshan Verma and plaintiff & his family members are well known to each other for many years and had been having cordial and friendly relations with each other. Defendants are the legal heirs of Late Shri Roshan Verma.

3. That in the month of December 2021 defendant no.1&2 and their father Late Shri Roshan Verma approached plaintiff and requested for a friendly loan of Rs. 12,00,000/- (Rupees Twelve Lakhs only) on the pretext of some personal necessity with the assurance of its return within a year. Though initially plaintiff was not inclined to give such a huge loan but upon defendant no. 1 & 2, and their father Late Shri Roshan Verma's persistent request and being close friend, the plaintiff agreed and lent the said friendly loan to the defendant no. 1&2 and their late father Shri Roshan Verma in the month of January, 2022 in presence of the Late Shri Roshan Verma's friend Mr. Leelu Ram.

4. That at the time of receiving above amount of Rs. 12,00,000/-(Rupees Twelve Lakhs only), Late Shri Roshan Verma along with defendant no. 1 & 2 assured the plaintiff to repay the said amount on or before the end of December 2022.

5. That in April, 2022 itself, in discharge of partial loan liability towards plaintiff and with the consent of defendant No.1&2, the defendants' father Late Shri Roshan Verma issued two cheques bearing No.000075 dated 24.12.2022 for Rs.5,00,000/- and cheque No. 000076 dated 24.12.2022 for Rs.6,00,000/- both drawn on Punjab & Sind Bank, Kotla Mubarakpur, New Delhi in favour of plaintiff with the assurance of their clearance on presentation. Late Shri Roshan Verma and defendant no.1&2 also undertook to repay balance of Rs.1,00,000/- within a period of 3 months. It is relevant to mention here that from May 2022 till October 2022 Late Shri Roshan Verma and defendant no.1&2 paid a sum of Rs.35,000/- in total out of Rs. 12,00,000/-through banking channel. However, to the utmost shock and surprise of Plaintiff, when the aforesaid cheques were presented to bank for their encashment, same were dishonoured by banker of Late Shri Roshan Verma which was intimated to plaintiff by his banker on 06.02.2023 with the remarks "Funds Insufficient". Payment receipts of aforesaid payment of



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Rs.35,000/-; two original cheques; two original return memos and Certificate U/s. 63 BSA (65B Evidence Act) are annexure hereto.

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9. That thereafter plaintiff through his counsel sent Legal Notice of Demand dated 13.02.2023 U/s. 138 Negotiable Instruments Act to Late Shri Roshan Verma through his counsel by Speed Post and demanded the entire balance loan amount of Rs. 11,65,000/- which includes the amount of above two dishonoured cheques amount within 15 days from the date of receipt of notice.

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12. That since Defendants have, without taking into consideration the graciousness of the Plaintiff who has advanced the said loan amount to help late Shri Roshan Verma & Defendant no. 1 & 2, not repaid the aforesaid loan amount to the **Plaintiff till date, therefore, the Plaintiff is entitled to recover from Defendants, the said loan amount along with interest at a rate which may be determined by the Hon'ble Court.** The Plaintiff undertakes to pay the required court fees on the said interest amount as and when the same is determined/fixd by the Hon'ble Court.

13. That cause of action for filing the present suit arose in the month of December 2021 when the defendants No. 1&2 and their father Late Shri Roshan Verma and Defendant no. 1 & 2, approached the plaintiff and requested for friendly loan of Rs. 12,00,000/- which was given by the Plaintiff. **Cause of action further arose when Rs.35,000/- was repaid to plaintiff on different dates. It also arose in the month of October 2022 when the aforesaid cheques issued by the defendants' father Late Shri Roshan Verma were dishonoured and returned back to the plaintiff by his banker. Cause of action further arose when the plaintiff issued a legal notice of demand dated 13.02.2023 to defendants' father Late Shri Roshan Verma. The cause of action lastly arose in the month of June 2024 when the defendants finally refused to return/ repay the balance loan amount of Rs.11,65,000/- to the plaintiff. The cause of action is still existing and subsisting as the defendants have till date not paid the amount taken by their father Late Shri Roshan Verma in presence of the defendants.**

[Emphasis supplied]

8. It is settled law that in an Application under Order VII Rule 11 of the CPC, all that is required to be examined is the plaint along with the documents filed with the plaint. The Court is not required to entertain the defence of the Respondent. The first ground that has been taken by the Petitioner is that the case as set out in the plaint is false. This is not a ground as is envisaged under the provisions of Order VII Rule 11 of the CPC. It is



apposite to set out Order VII Rule 11 of the CPC below:

11. Rejection of plaint— The plaint shall be rejected in the following cases:—

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law :

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]”

9. The other ground taken is that the plaint is barred by Order VII Rule 11(a) of the CPC for not disclosing a cause of action. Concededly, the plaint does disclose cause of action. An Application under Order VII Rule 11 of the CPC has to be decided on a demurer which in the present case, from a reading of the plaint as well as the documents filed along with the plaint, clearly discloses the cause of action. It is trite law that in an Application filed under Order VII Rule 11 of the CPC, the plaint and averments are to be taken on their face and on a demurer. At this stage, the Court is not entitled to consider the case of defence. In this regard, it is apposite to set out the observations made by the Supreme Court in the case of *C. Natrajan v. Ashim Bai and Anr.* (2007) 14 SCC 183, the relevant extract of which is reproduced herein:

“8. An application for rejection of the plaint can be filed if the allegations made in the plaint even if given face value and taken to be correct in their entirety appear to be barred by any law. The question as to whether a suit is barred by limitation or not would, therefore, depend upon the facts and circumstances of each case. For the said purpose, only the averments made in the plaint are relevant. At this stage, the court would not be entitled to consider the case of the defence. (See Popat and Kotecha Property v. SBI Staff Assn. [(2005) 7 SCC 510]”



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[Emphasis supplied]

10. Learned Counsel for the Petitioners submits that there is an “illusory” cause of action. The contention of the learned Counsel for the Petitioners is without any merit. The plaint clearly discloses the cause of action. Whether or not, the Plaintiff will ultimately succeed is the subject matter of a trial and all the arguments which have been addressed by the learned Counsel for the Petitioners which constitute his defence and cannot be considered at the time of hearing the Application under Order VII Rule 11 of the CPC. The learned Trial Court has thus, correctly dismissed the Application under Order VII Rule 11 of the CPC.

11. So far as concerns the other objection taken by the learned Counsel for the Petitioners on the ground that the plaint is barred by law, learned Counsel for the Petitioners requests for an adjournment.”

2. Learned Counsel for the Petitioner today fairly concedes that the issue that was raised by him and which forms part of his Written Statement would require to be examined at trial. In this behalf, learned Counsel seeks to rely upon the judgment of the Supreme Court in *Correspondence, RBANMS Educational Institution v. B. Gunashekar & Anr.*¹, wherein the Supreme Court has issued directions for compliance where such a proposition is raised by a party. The relevant extract of judgment is set out below:

*“18.1. Further, through the averments made in the plaint and in the agreement, the respondents/plaintiffs have claimed to have paid huge sum towards consideration by cash. **It is pertinent to recall that Section 269ST of the Income Tax Act, was introduced to curb black money by digitalising the transactions above Rs. 2,00,000/- and contemplating equal amount of penalty under Section 271DA of the Act. As per the said provisions, action is to be taken on the recipient. However, there is also an onus on the plaintiffs to disclose their source for such huge cash...***

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However, when the Bill was passed, the permissible limit was capped under Rupees Two Lakhs, instead of the proposed Rupees Three Lakhs. When a suit is filed claiming Rs. 75,00,000/- paid by cash, not only does it create a suspicion on the transaction, but also displays, a violation of

¹ 2025 SCC OnLine SC 793



law. Though the amendment has come into effect from 01.04.2017, we find from the present litigation that the same has not brought the desired change. When there is a law in place, the same has to be enforced. Most times, such transactions go unnoticed or not **brought to the knowledge of the income tax authorities. It is settled position that ignorance in fact is excusable but not the ignorance in law. Therefore, we deem it necessary to issue the following directions:**

(A) Whenever, a suit is filed with a claim that Rs. 2,00,000/- and above is paid by cash towards any transaction, the courts must intimate the same to the jurisdictional Income Tax Department to verify the transaction and the violation of Section 269ST of the Income Tax Act, if any,

(B) **Whenever, any such information is received either from the court or otherwise, the Jurisdictional Income Tax authority shall take appropriate steps by following the due process in law,**

(C) Whenever, a sum of Rs. 2,00,000/- and above is claimed to be paid by cash towards consideration for conveyance of any immovable property in a document presented for registration, the **jurisdictional Sub-Registrar shall intimate the same to the jurisdictional Income Tax Authority** who shall follow the due process in law before taking any action,

(D) Whenever, it comes to the knowledge of any Income Tax Authority that a sum of Rs. 2,00,000/- or above has been paid by way of consideration in any transaction relating to any immovable property from any other source or during the course of search or assessment proceedings, the failure of the registering authority shall be brought to the knowledge of the Chief Secretary of the State/UT for initiating appropriate disciplinary action against such officer who failed to intimate the transactions.”

[Emphasis supplied]

3. Learned Counsel for the Petitioner seeks and is granted permission to withdraw the present Petition with liberty to take all defences before the learned Trial Court during the trial.
4. The Petition is dismissed as withdrawn. The pending Application also stands closed.
5. It is clarified that this Court has not examined the matter on merits and the rights and contentions of both the parties are left open to be agitated before the learned Trial Court.



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6. The parties shall act based on the digitally signed copy of the order.

SEPTEMBER 10, 2025/ ha

TARA VITASTA GANJU, J