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

Date of decision: 29th August, 2025

\+ CRL.M.C. 6071/2025, CRL.M.A. 25792/2025, CRL.M.A. 25793/2025, CRL.M.A. 25794/2025.

PRAMOD GOEL .....Petitioner

Through: Mr. Nishank Tyagi, Mr. Gaurav Jain, Advocates.

versus

STATE NCT OF DELHI & ANR. ....Respondents

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

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

ARUN MONGA, J. (ORAL)

1. Petitioner is under trial for dishonor of three cheques bearing Nos. 973231, 973232, 973233 for an amount totalling to Rs. 4,15,800/-. The complainant filed a complaint against the company and its directors, including the petitioner, under Section 138 read with Section 141 of the NI Act. He alleged that Indirapuram Habitat Center Pvt. Ltd., a real estate company, issued security cheques to him under an agreement for a project unit, which were dishonored due to insufficient funds on 29.03.2019.

2. His case is that the trial court summoned the petitioner vide an order dated 13.09.2019, despite the fact that he was in police custody

since 18.03.2019 and the company had been declared insolvent on 22.08.2019 with a Resolution Professional managing its affairs.

3. Assailed herein, inter alia, an order dated 20.03.2025 passed by the learned sessions Court whereby his revision petition dated 12.03.2024 under Section 397 Cr.P.C., seeking discharge in the said matter, was dismissed. It was held that revision was filed after a delay of over four and a half years without providing any sufficient explanation for the delay.

4. Hence this petition.

5. Learned counsel for the petitioner submits that the petitioner has been in judicial custody for more than six years, is a senior citizen aged 67 years, and is facing several FIRs which require his daily production before different courts. These circumstances, beyond his control, caused delay in filing the present criminal revision petition and constitute sufficient cause for condonation.

5.1 It is further urged that the impugned summoning order has been passed mechanically and without due application of mind, in disregard of settled judicial principles laid down by the Supreme Court and various High Courts, thereby causing serious prejudice to the petitioner.

6. On merits, it is contended that the cheques in question were issued by the company and not by the petitioner in his personal capacity. The petitioner could only be made liable under Section 138 read with Section 141 of the NI Act if he was in charge of, and responsible for, the conduct of the company's business at the relevant time. Since the petitioner was in judicial custody on the date of

dishonor, he had no control over the company's operations, finances, or decision-making. Reference is made to judgment rendered in ***Manmohan Patnaik vs. Cisco System India Pvt. Ltd.*** (Crl. M.C. No. 6461 of 2022).

6.1 It is also argued that the mandatory requirement of service of legal notice under Section 138 NI Act was not complied with. No such notice was ever served upon the petitioner, and in the circumstances of his custody, there can be no presumption of deemed service. The respondent, while filing the complaint, failed to disclose these material facts and misled the trial court, resulting in an erroneous summoning order against the petitioner.

7. Learned APP for the State opposes the petition on the ground that order passed by the trial court is well reasoned and has been dismissed rightly on the ground of delay. Thus, warrants no interference.

8. In the aforesaid backdrop I have heard the respective contentions and perused the case file.

9. Perusal of the impugned order dated 20.03.2025 passed by the learned Revision Court reveals that it is essentially premised on the reasoning that the trial court passed the summoning order on 13.09.2019, but the revision petition was filed only on 16.03.2024, after a delay of about four and a half years. Though the petitioner was supplied with a copy of the complaint on 03.05.2023, he repeatedly claimed otherwise until it was again provided on 03.10.2024. The petitioner since failed give satisfactory explanation as to when he became aware of the summoning order or why the revision petition

was delayed for so long, the court held that the delay could not be condoned.

10. The relevant paragraphs of the order of trial court declining to discharge the petitioner reads as under :-

> *"The record shows that the impugned order was passed by the ld. trial court on 13.09.2019, whereby, the petitioner was ordered to be summoned and the present petition has been filed on 16.03.2024 i.e. about four years and six months approximately. The trial court record further shows that the petitioner was produced before the ld. trial court on 03.05.2023 and copy of the complaint alongwith the documents were supplied to him, however, on subsequent dates the petitioner kept on mentioning to the court that the copy of the complaint was not supplied to him and the said fact was brought to the notice of the ld. trial court and clarified by the ld. counsel for the complainant in the proceedings dated 03.10.2024. Despite the fact that the copy of the complaint had already been supplied to the revisionist by the ld. trial court on 03.05.2023, the ld. trial court again supplied the same to him on 03.10.2024.*
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> *It is important to note that in the application the petitioner was supposed to explain the delay but he has not explained the same at all. The petitioner has not mentioned as to on what date he came to know about the impugned order and why he got delayed in filing the present petition so late. As noted by the court in the preceding para, the petitioner has not even mentioned in the application that he came to know about the impugned order on 03.10.2024 and the delay may be counted from this date. Further, the court could be liberal if the delay was not much but the delay is of about Four and a half years and that too is not properly explained.*
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> *Considering the facts as discussed above, the court is of the view that the petitioner has not explained the delay and as such the delay in filing the petition cannot be condoned.*
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> *Accordingly, the application is dismissed."*

11. Having heard the rival contentions and upon perusal of the rivion order and taking an overall view of the matter, I find myself unable to agree with the reasoning of the learned Revision Court insofar as it declined condonation of delay. The petitioner, a senior

citizen, has been in continuous judicial custody for more than six years and is simultaneously required to attend proceedings in several FIRs pending before different courts.

12. The circumstances of the petitioner are neither of his making nor within his control, and they naturally impeded him in pursuing his legal remedies with promptitude. The explanation furnished, when viewed in the backdrop of his prolonged incarceration and multiple simultaneous litigations, constitutes a sufficient cause which ought to have been appreciated with a liberal approach, but only in the context of condonation of delay. The rigour of limitation cannot and should not be applied mechanically where valuable rights of defence are at stake, particularly in criminal proceedings carrying penal consequences.

13. However, having said that, and upon consideration of the merits of the defence raised by the petitioner, I am of the opinion, even condonation of delay by itself would not automatically entitle the petitioner to discharge or quashing of the summoning order.

14. Condoning the delay and stepping into the shoes of the revision court, I am of the view that the scope of interference under section 397 ibid is circumscribed. On a careful consideration of the merits of the challenge, I find no justification to interdict the summoning order as no irregularity of any kind is borne out to grant any indulgence on that count.

15. The contentions advanced on behalf of the petitioner i.e. such as the cheques being issued by the company and not by him in his personal capacity, or his lack of control over the affairs of the

company due to his custody at the relevant time, are essentially issues/matters of trial. These issues require evidence and appreciation of facts, in light thereof, which fall within the province of the trial court and not Revisional Court or this Court.

16. Accordingly, the trial court, at the appropriate stage, will examine whether the statutory requirements under Sections 138 and 141 of the NI Act stand fulfilled and whether liability, if any, can be fastened upon the petitioner. Likewise, the plea regarding non-service of statutory notice cannot be conclusively adjudicated at the threshold but must be tested in the course of trial upon production of relevant evidence. Thus, while the delay deserves to be condoned, the summoning order does not warrant interference at this stage.

17. Resultantly, petition is dismissed with liberty to raise all the defence before the learned trial court.

ARUN MONGA, J

AUGUST 29, 2025*/rs/nk*