2026:DHC:5860

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

Reserved on: 20.07.2026
Date of Decision: 24.07.2026
Uploaded on: 24.07.2026

\+ **CRL.M.C. 5408/2014**

M/S ROSMARINE SHIPPING PVT LTD .....Petitioner

Through: Mr. Manish Gandhi, Mr. Rolly Dixit and Mr. Sanjeev Beniwal, Advs.

versus

M/S CLUTCH AUTO LTD & ORS .....Respondents

Through: None.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as '*Cr.P.C.*') assailing the judgment dated 25.07.2014 passed by the learned Additional Sessions Judge in Criminal Revision No. 56/2014, whereby the order dated 10.12.2013 passed by the learned Metropolitan Magistrate in Complaint Case titled ***Rosmarine Shipping Pvt. Ltd. v. Clutch Auto Ltd. & Ors.,*** dismissing the complaint filed by the petitioner under Section 200 Cr.P.C., came to be affirmed.

Brief Facts:

2. The petitioner, M/s Rosmarine Shipping Pvt. Ltd. (hereinafter referred to as the '*petitioner*'), is a private limited company engaged in the business of freight forwarding and shipping services. The present petition has been instituted through its Director, Shri Rajesh Bhatia, who is stated to have

been duly authorised by a Board Resolution dated 02.06.2010.

3. It is the case of the petitioner that during February–March, 2005, respondent No.1, M/s Clutch Auto Ltd. (hereinafter referred to as the 'respondent company'), acting through respondent Nos.2 to 4, approached the petitioner for transportation and shipping of used machinery purchased from M/s Daikin Clutch Corporation, USA (hereinafter referred to as 'Daikin USA'). Pursuant thereto, the parties entered into a commercial arrangement whereby the petitioner was to undertake transportation of the machinery from the United States to the factory premises of the respondent company at Faridabad, including customs clearance and allied logistics services.

4. According to the petitioner, the parties agreed that the respondent company would pay service charges equivalent to 9% of the Free on Board (FOB) value of the shipment, in addition to the transportation charges. It is the petitioner's case that the agreed FOB value was understood to include the value of the machinery as well as the costs incurred towards dismantling, packaging, handling and delivery of the machinery to the shipping company. The petitioner relies upon an e-mail communication dated 17.03.2005 in support of the aforesaid arrangement.

5. It is further the case of the petitioner that the machinery was transported under House Bill of Lading No. ITC50409 dated 28.04.2005, and that it completed the transportation and customs-related formalities in terms of the arrangement between the parties. The cargo is stated to have remained with the Customs Department between 23.08.2005 and 01.10.2005 for assessment of customs duty and verification of the declared FOB value.

6. According to the petitioner, during the customs proceedings,

respondent No.2 addressed a communication dated 28.09.2005 to the Commissioner of Customs enclosing another communication purportedly issued by an official of Daikin USA, stating that the consideration for the machinery was USD 1,50,000, which included dismantling charges and other costs incurred up to handing over the machinery to the shipping company.

7. The petitioner further alleges that while pursuing recovery of its service charges, it came across a subsequent communication dated 09.12.2005, on the basis of which it formed the view that the communication dated 28.09.2005, purportedly issued on behalf of Daikin USA, was not genuine. According to the petitioner, the subsequent communication indicated that the machinery had been sold by Daikin USA to the respondent company on an 'as is where is' basis for a consideration of USD 1,50,000, and that the said amount did not represent the FOB value of the shipment.

8. The petitioner states that between 2006 and 2010, it addressed several complaints and reminders to the police authorities alleging commission of offences by the respondents. It also obtained a handwriting expert's opinion dated 19.09.2009, which, according to the petitioner, indicated that the questioned signatures appearing on the impugned communication differed from the admitted signatures of the concerned official of Daikin USA.

9. Thereafter, the petitioner instituted a complaint under Section 200 Cr.P.C. along with an application under Section 156(3) Cr.P.C. seeking registration of an FIR against the respondents. The application under Section 156(3) Cr.P.C. came to be dismissed by the learned MM, whereafter the petitioner led pre-summoning evidence in support of the complaint. During the course of the pre-summoning evidence, the petitioner examined its

authorised representative as well as a handwriting expert, an official from the respondents' banker and a customs official, besides placing the relevant documentary record before the learned MM.

10. Upon consideration of the complaint and the pre-summoning evidence, the learned MM dismissed the complaint *vide* order dated 10.12.2013. Aggrieved thereby, the petitioner preferred Criminal Revision No. 56/2014, which also came to be dismissed by the learned ASJ *vide* judgment dated 25.07.2014. Aggrieved by the aforesaid orders, the petitioner has preferred the present petition.

Submissions on behalf of the petitioner

11. Learned counsel for the petitioner submits that the learned MM and the learned ASJ failed to appreciate that the material placed on record, including the pre-summoning evidence of the handwriting expert, the respondents' banker and the customs official, prima facie disclosed the commission of cognizable offences by the respondents. He further places reliance upon the decisions of the Supreme Court in ***S.W. Palanitkar v. State of Bihar***, (2002) 1 SCC 241**,** ***Nirmaljit Singh Hoon v. State of W.B.,*** (1973) 3 SCC 753**,** ***Vadilal Panchal v. Dattatraya Dulaji Ghadigaonkar***, 1960 SCC OnLine SC 79, ***Chandra Deo Singh v. Prokash Chandra Bose***, 1963 SCC OnLine SC 4 ***and Mohinder Singh v. Gulwant Singh,*** (1992) 2 SCC 213 to submit that the learned MM and learned ASJ failed to appreciate the essence of Sections 200 and 202 of the Cr.P.C.

12. It is submitted that the learned ASJ erred in observing that the petitioner was entitled to a percentage on the invoice amount of USD 1,50,000 as commission, whereas, according to the petitioner, the agreement between the parties contemplated payment of 9% of the FOB value of the

shipment.

13. It is submitted that the learned MM and the learned ASJ failed to appreciate that the invoice dated 30.03.2005 and the communication dated 28.09.2005, purportedly issued under the signatures of Mr. Kenneth J. Shunta, were forged. It is further submitted that the communication dated 15.03.2011, issued on behalf of Mr. Kenneth J. Shunta, established that he had neither issued nor authorised the issuance of the communication dated 28.09.2005.

14. Learned counsel further submits that the complaint was not filed for recovery of any amount but disclosed the commission of offences of cheating, forgery and criminal breach of trust.

15. It is further submitted that the forged documents were used before the Customs Authorities, thereby causing wrongful loss to the petitioner as well as the public exchequer.

16. It is submitted that the matter was at the stage of issuance of process and the material placed on record was sufficient to make out a prima facie case for summoning the respondents. Accordingly, the impugned judgment and order are liable to be set aside.

<u>Submissions on behalf of the respondents</u>

17. When the matter was reserved for judgment, none appeared on behalf of the respondents. The present judgment is, therefore, being rendered on the basis of the written submissions and the material available on record.

18. Respondents in his reply submits that the complaint under Section 200 Cr.P.C. was rightly dismissed, which order was rightly affirmed in revision.

19. It is submitted that the alleged transaction pertains to the year 2005, whereas the complaint was lodged only in 2010, without any explanation for

the delay of nearly five years. It is further submitted that the petitioner has neither disclosed when it acquired knowledge of the alleged forgery nor explained the delay in initiating the proceedings.

20. It is submitted that the allegation of forgery of the letter dated 28.09.2005 rests solely on the opinion of the handwriting expert, who compared the disputed signature with scanned photocopies obtained from a website. It is further submitted that Mr. Kenneth J. Shunta was not examined, and none of the witnesses examined during pre-summoning evidence, including the handwriting expert, the Canara Bank official and the Customs Officer, prima facie establish forgery.

21. It is submitted that the petitioner admittedly received 9% commission on the FOB value of USD 1,50,000, and that the dispute pertains only to the alleged commission on USD 28,800 towards dismantling and packing charges.

22. It is submitted that the allegations arise out of the contractual arrangement between the parties and pertain to recovery of the alleged commission.

23. Accordingly, it is submitted that the present petition is devoid of merit and liable to be dismissed.

Analysis and Findings

24. Before adverting to the merits of the rival contentions, it is important to note that the scope of revisional jurisdiction under Section 397 Cr.P.C. is limited. The Revisional Court is concerned only with examining the correctness, legality or propriety of the impugned order and to ascertain whether any patent illegality, jurisdictional error or material irregularity has crept into the proceedings. It is not expected to substitute its own view

merely because another view may also be possible.

25. It is equally well settled that at the stage of considering a complaint under Sections 200 and 203 Cr.P.C., the Magistrate is not required to undertake a meticulous appreciation of the evidence. The Court is only required to ascertain whether the material placed before it discloses sufficient grounds for proceeding against the proposed accused. The Magistrate is not expected to undertake a meticulous appreciation of the evidence. Conversely, where the material placed on record does not prima facie disclose the commission of the alleged offences, the complaint is liable to be dismissed under Section 203 Cr.P.C.

26. The judgments relied upon by the learned counsel for the petitioner, reiterate the settled principles governing proceedings under Sections 200 and 203 Cr.P.C., that at the stage of considering a complaint the Magistrate is required to examine whether sufficient grounds exist for proceeding and is not expected to undertake a meticulous appreciation of the evidence. The said principles are not in dispute. The same has been reiterated by the Supreme Court in its recent decision ***Rekha Sharad Ushir v. Saptashrungi Mahila Nagari Sahkari Patsansta Ltd.***, 2025 SCC OnLine SC 641, which reads as under:

> *"21. While filing a complaint under Section 200 of CrPC and recording his statement on oath in support of the complaint, as the complainant suppresses material facts and documents, he cannot be allowed to set criminal law in motion based on the complaint. Setting criminal law in motion by suppressing material facts and documents is nothing but an abuse of the process of law."*

27. In the present case, the learned MM considered the complaint, the pre-summoning evidence and the documents placed on record before concluding that no sufficient grounds were made out for issuance of process. The learned ASJ, while exercising revisional jurisdiction, independently examined the record and found no infirmity in the said conclusion. It is also not in dispute that the alleged transaction pertains to the year 2005, whereas the complaint came to be instituted only in the year 2010. The record does not disclose any satisfactory explanation for the delay in initiating the criminal proceedings.

28. The principal submissions of the petitioner pertain to the genuineness of the communication dated 28.09.2005, the alleged forgery of signatures, the valuation of the shipment and the petitioner's entitlement to additional commission. These were the very issues examined by the learned MM while considering the pre-summoning evidence. Upon appreciation of the material placed on record, the learned MM concluded that no prima facie case was made out and that the dispute was essentially civil in nature. The learned ASJ found no infirmity in the said view. The decisions relied upon by the petitioner lay down settled principles of law. In the facts of the present case, this Court also finds no patent illegality, perversity or jurisdictional error in the impugned orders warranting interference under Section 482 Cr.P.C.

Conclusion

29. Accordingly, this Court finds no merit in the present petition. The impugned judgment dated 25.07.2014 passed by the learned ASJ, affirming the order dated 10.12.2013 passed by the learned MM dismissing the complaint under Section 200 Cr.P.C., does not warrant interference. The

present petition is, accordingly, dismissed.

30. Pending application(s), if any, shall also stand disposed of.

MADHU JAIN
(JUDGE)

JULY, 24 2026/Av