



2025:DHC:5591



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

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*Reserved on: 24<sup>th</sup> April, 2025  
Pronounced on: 11<sup>th</sup> July, 2025*

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**CRL.M.C. 5624/2018, CRL.M.A. 35693/2018 (stay)**

**M/S. CONCEPT HORIZON INFRA PVT. LTD.**

Registered Office at:-  
8/13, Sahi Hospital Road,  
Jungpura, New Delhi – 110049

Through - Authorized Representative - Director

Mr.Ambika Prasad Sharma .....Petitioner

Through: Mr. Adit S. Pujari, Ms. Vanya  
Chhabra and Mr. Zeeshan Thomas,  
Advocates.

versus

1. **STATE (GOVT. OF NCT OF DELHI)**

Through its Standing Counsel (CrI.),  
Chamber No.437, Delhi High Court,  
New Delhi- 110003

.....Respondent No. 1

2. **SUNINDER SANDHA**

S/o Sh. J.S. Sandha

R/o House No. 2, NRI Complex,

Greater Kailash – IV, New Delhi – 110048 .....Respondent No. 2

Through: Mr. Utkarsh, APP for the State with  
SI Praveen, PS EOW.

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**CRL.M.C. 5631/2018, CRL.M.A. 35715/2018 (stay)**

**M/S. CONCEPT HORIZON INFRA PVT. LTD.**

Registered Office at:-



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**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T**

**NEENA BANSAL KRISHNA, J.**

1. The two aforesaid Petitions have been filed under Section 482 of Criminal Procedure Code, 1973 seeking stay of proceedings in CC Nos. 48771/2016 and 47692/2016 under Section 138 N.I. Act wherein the Petitioner has been arraigned as Accused No. 1, in the light of pending adjudication of FIR no. 1233/2016 dated 10.08.2016, P.S. Noida and FIR



no. 665/2016 dated 07.12.2016 P.S. Vikas Puri, pending investigation with EOW.

2. ***Briefly stated***, sometime in 2011, Complainant/Suninder Sandha, claiming himself to be having expertise in the field of marketing in Real Estate Projects and Jeevesh Sabharwal jointly agreed to work on a Project named IRIDIA being built in Noida and developed by M/s Horizon Buildcon Private Limited ("HBPL"). For this purpose, a SPV called Horizon Concept Private Limited was floated wherein 25 percent of the shares were held by Complainant/Suninder Sandha and the remaining shares were held by HBPL.

3. In 2013, again Complainant/Suninder Sandha and the Jeevesh Sabharwal agreed to work on another Project called Orizzonte. For this purpose, M/S. Concept Horizon Infra Pvt. Ltd (CHIPL) (*petitioner Company*) was incorporated on 02.07.2013, with Mr. Jeevesh Sabharwal and Respondent no.2 as Directors having 50-50% shareholding. Complainant/Suninder Sandha was to oversee the day-to-day affairs of CHIPL.

4. Complainant persuaded the Petitioner to purchase FSI on plot of land bearing no-22, at Knowledge Park-III, Greater NOIDA with rights to develop / construct FSI of 5.40 lakhs sq.ft. On 05.10.2013, an Agreement was entered into between the Petitioner and *M/s. Shivam Estates* for the development and sale of the FSI jointly, a project marketed under the name of 'Orrizonte'. The CRM data of the Petitioner Company was in complete control of the Complainant, who was authorised to create customer accounts in the books of the Petitioner Company.



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5. In 2016, the Complainant represented that he wished to exit the Petitioner Company. He stated that he had already booked/sold 940 flats/commercial units, and that all the units in the Project had already been sold at or above the base price and the gross receivables arising out of the said sales in the Project would be not less than Rs. 233 crores. The Complainant had Rs. 1.46 crore as cash in hand that belonged to the Petitioner Company which was reflected in the books of the Petitioner Company.

6. A *MoU dated 16.03.2016* was entered into between the parties with Mr. Naresh Sabharwal as a Confirming Party for the exit of Complainant/Suninder Sandha. As per the MoU, Petitioner agreed to pay an amount of Rs. 30 crores to the Complainant over 2 years time with reciprocal promises were to be executed by him.

7. On 13.04.2016, the Complainant refused to abide by the terms of the MoU and to share the URL, Admin LOGIN ID, Password and access rights for CRM software, which were finally received by the Petitioner only after intervention of the Police on a Complaint filed by the Petitioner before the SHO, PS Bhondsi, Gurgaon.

8. When the Petitioner Company requested the Service Provider vide emails dated 04.06.2016 and 08.06.2016 on 04.06.2016 that CRM be updated to reflect latest changes in the taxes, it was found that there were several discrepancies in the Accounts maintained by the Complainant.

9. On 01.07.2016, Mr. Pant, a customer approached *M/s. Horizon Buildcon Pvt. Ltd.* for refund of the amount invested in buying a flat. However, it was discovered that there was a huge discrepancy in the records



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made available by the Complainant. Inquiries revealed that the Respondent no.2 had fraudulently, illegally and without consent or knowledge, opened the abovementioned separate bank Account in Axis Bank, Vikas Puri Branch. For this, he had used the Account Opening Form, Board Resolution dated 15.01.2013, fabricated KYC papers & fabricated Board resolution dated 07.05.2013 containing forged signatures of Mr. Jeevesh Sabharwal and had siphoned huge monies.

10. After learning of the fraud committed and the false projections used by the Complainant to induce the consent for MoU, the payments under MoU were stopped after issuing a Legal Notice dated 20.07.2016.

11. The Complainant deposited Cheque No. 016375 and Cheque bearing no. 016376 dated 15.07.2016 for a sum of Rs.2,00,00,000/-, on two different dates which got dishonoured due to *Stop Payment*. The Complainant after sending two separate Legal Notice dated 08.08.2016 and 19.09.2016 respectively, filed **two CC no. 47692/2016 and CC No.48771/2016, under S.138 NI Act** in Delhi.

12. The actions of the Respondent no.2 of filing Complaint Case under S.138 NI Act in Delhi, resulted in registration of **FIR No. 1233/2016** dated 10.08.2016 at PS Noida, against the Complainant. Charge-sheet was filed inter-alia confirming the above-mentioned acts of cheating, forgery etc. of an amount of Rs. 18 Crore (approx.), along with a FSL Report confirming that the alleged signatures of the above named Mr. Jeevesh Sabharwal had been forged. Several of the accounts maintained by the Respondent no.2 were frozen/attached by the Investigating Agency. This action of freezing



the bank accounts has been upheld by various Courts all the way up till the Apex Court.

13. Filing of second Complaint case under S.138 NI Act by the Respondent no.2 in Delhi, led to registration of second **FIR No. 665/2016** dated 07.12.2016 under Sections 406/420/467/468/471/120B and 34 IPC, P.S. Vikipuri on the Complaint of the Petitioner.

14. It is submitted that Respondent no. 2 is presently facing *several other criminal proceedings* including proceedings emanating from **FIR No. 196/2016** dated 15.12.2016 PS EOW Wing.

15. In the meanwhile, Arbitration proceedings had been invoked between the parties with respect to MOU dated 16.03.2016. It was only during the pendency of the Arbitral proceedings sometime in May, 2018 that the CRM Service Provider clarified that the Respondent no.2 had maintained two CRMs in respect of the Project Orizzonte, without the knowledge and consent of the Petitioner Company.

16. Despite the pendency of Arbitral proceedings, the Complainant sought to have the Cheque No. 16377 and Cheque No. 16378 encashed, which were issued in furtherance of the MOU dated 16.03.2016, and the same got dishonestly bounced.

17. Consequently, two other Complaint Cases no. 2312/2017 and 1107/2017 both titled “*Mr. Suninder Sandha Vs. M/s. Concept Horizon Infra Pvt. Ltd. & Ors.*” under Section 138 NI Act with respect to Cheque no. 016377 and 016378 in the Sector 20, NOIDA, District Gautambudh Nagar.

18. It is submitted that the said two Complaint Cases pending in Noida, were sought to be quashed by the Petitioner vide **Petition Nos. 25876**



*of 2018 and 30248 of 2018* respectively *u/s 482 Cr.P.C.* before the High Court of Allahabad. The High Court *vide* Orders dated 14.08.2018 and 12.09.2018 was pleased to issue notice in the quashing proceedings and to stay further proceedings in the Complaint Cases respectively.

19. The Petitioner has asserted that the Ld. Trial Court erroneously took cognizance on the two Complaints under S.138 NI Act *vide* Order dated 26.09.2016 and Order dated 03.11.2016. On the same day, the Respondent no.2/Suninder Sandha led pre-summoning evidence in both Complaints and the Ld. Trial Court summoned the Petitioner Company.

20. Aggrieved by the continuation of the two Complaints CC No.47692/2016 & CC No. 48771/16, and by the framing of Notice in the two Complaints *vide* Order dated 05.09.2018 against the Petitioner Company, the present Petitions have been preferred with the following prayers:

- “a. Stay all further proceedings in CC Nos. 47692/16 titled ‘Suninder Sandha v. M/s Concept Horizon Infra Pvt. Ltd. & Ors.’ pending investigation and adjudication of FIR No.1233 of 2016, PS Noida, Sector-20 dated 10.08.2016 and FIR No. 665/2016, PS Vikas Puri, Delhi dated 07.12.2016 now pending investigations with EOW, New Delhi and the Arbitration Proceedings currently pending between the parties before Ld. Sole Arbitrator Sh. Badar Durrez Ahmed; and/or*
- b. Pass appropriate direction to the Respondent no.1 to do speedy investigations in a time-bound manner in FIR No.665/2016 dated 07.12.2016 at PS Vikaspuri u/s 406/420/467/468/471/120B and 34 IPC now pending investigations with EOW, New Delhi; and/or...”*



21. ***The Respondent No.2 has filed a*** short Counter-Affidavit wherein it is submitted that the Petitioner has come with unclean hands and is playing a fraud on the Court. The present case is baseless and not maintainable on the ground that the Petitioner had earlier filed a ***CRL.M.C. 5398/2018*** seeking quashing of CC No. 47692/2016 & Order dated 05.09.2018, which was dismissed as withdrawn *vide* Order dated 23.10.2018.
22. It is submitted that the Petitioner approached this court in haste and chose to not take this defence in the trial of Complaint Cases.
23. It is further submitted that the ground taken in the Petition that the cheque payment was stopped on the direction of the Petitioner and therefore, no offence under section 138 of NI Act, is flawed on the face of it as it has been settled by the Apex Court that the aforesaid ground is no ground for the court to quash or stay the proceedings initiated under the NI Act.
24. Thus, it is prayed that the Petition be dismissed.
25. **Submissions heard and record perused.**
26. The Parties had started doing business together in the year 2012 by entering into a MoU dated 05.10.2012. And after about 3 years, the Respondent indicated that he wanted to exit the business and accordingly, the parties entered into a MoU dated 15.03.2016.
27. Pursuant to the said MoU, the Petitioner agreed to pay Rs. 30 crores to Respondent No. 2 over the next 2 years for which the cheques No. 016375 and 016376 were issued and the same are the subject matter in CC No. 47692/2016 and 48771/2016.
28. The Petitioner has sought to argue that they detected a fraud perpetrated by the Respondent No. 2 initially on 13.04.2016 when he



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refused to share the URI, Admin Login ID & Password, etc to the CRM Software, and subsequently, the gross violation of the terms of the MoU which prompted them to further look into the CRM record where upon they found various discrepancies in the Accounts maintained by Respondent No. 2. It is only then that further payments through Cheques issued pursuant to the MoU, were stopped and a Legal Notice in this regard was issued on 20.07.2016.

29. The Respondent No. 2 failed to Reply to the said Notice and deposited Cheque no. 016375 which was returned as dishonoured *vide* Memo dated 02.08.2016, and subsequently, CC No. 47692/2016 was filed.

30. Similarly, Cheque no. 016376 was presented and was returned as dishonoured *vide* Memo dated 22.08.2016 on account of “stop payment”, and CC No. 48771/2016 came to be registered.

31. It is only thereafter, that the FIR no. 1233/2016 dated 10.08.2016 was registered at P.S. Noida against Respondent No. 2 on the Complaint of Ambika Sharma. And subsequently FIR no. 665/2016 dated 07.12.2016 came to be registered under Sections 406/420/467/468/471/120B and 34 IPC at PS Vikaspuri, on the Complaint of Jeevesh Sabharwal.

32. It is in this backdrop, that the Petitioner herein seeks stay of trial in two CC No. 47692/2016 and CC No. 48771/2016 under Section 138 NI Act pending trial in FIR No. 665/2016 at P.S. Vikaspuri and FIR No.1233/2016 at PS Noida.

33. The only issue for determination is “*whether proceedings under Section 138 NI Act against the accused can be stayed pending adjudication of criminal proceedings initiated by the accused against the Complainant?*”



34. The proceedings under Section 138 NI Act and Sections 406/420/467/468/471/120B and 34 IPC operate in two different realms. The offence under 138 NI Act is *quasi-criminal* in nature & its intent is to nudge the accused to make the requisite payment. On the other hand, offences under IPC seek to punish an accused who committed an offence with necessary *mens rea*.

35. The objective of a criminal trial is to ascertain the truth and do justice. As recently noted by the Apex Court in Om Prakash vs. Union of India & Anr. 2025 INSC 43 that “Justice is nothing but a manifestation of the truth”.

36. The Petitioner, while seeking stay of the trial in Cheque dishonour cases, is attempting to assert the truthfulness of his own Complaints over those of Respondent No. 2.

37. This Court under Section 482 Cr.P.C. may be having extraordinary powers, but it cannot be resorted to scuttle the trial being conducted by the trial Courts, without any cogent reason. Right to a fair and **speedy** trial is a fundamental right and no one trial is superior to another even if arising out of the same facts, one trial cannot be allowed to take precedence over the other specially when there is grave injustice being caused to either party. Both the parties have a right to claim/pursue trial to ascertain the truthfulness of the facts.

38. The Apex Court considered similar facts in Rajeshbhai Muljibhai Patel vs. The State Of Gujarat & Anr., AIR 2020 SC 818, wherein the Appellant/Complainant had filed a Complaint under Section 138 NI Act. Later, on the Complaint of Respondent/Accused, an FIR was registered under Sections 406/420/465/467/468/471 and 114 IPC. The Accused had



also filed a Summary Suit for determination of the genuineness of the Receipts. The High Court had quashed the Complaint under Section 138 against which the Complainant went to the Supreme Court. ***The Apex Court held*** that since the Accused had admitted issuance of cheques, the essential element for an offence under Section 138 NI Act is satisfied. Therefore, the High Court erred in quashing the said Complaint under 138 NI Act. It was further held that the FIR registered on the complaint of the Accused is on the same facts as the Summary Suit and the genuineness of the receipts can be determined in the Summary Suit, consequently the FIR was quashed. However, the trial in the Complaints under S. 138 NI Act was allowed to be continued.

39. In the instant case, facts are *para materia* in so much as the Petitioner has sought stay of trial in the Complaint Cases under Section 138 NI Act, till the trial in the FIRs registered against the Complainant, is concluded. The trial in relation to Cheque Dishonour is an independent claim and is in no way defined by the allegations of fraud in conducting business for which two FIRs have been registered.

40. In *Imtiyaz Ahmad v. State of Uttar Pradesh*, (2012) 2 SCC 688, it is held that The power to grant stay of investigation and trial is very extraordinary power given to the High Courts and such power is to be exercised sparingly only to prevent abuse of process and to promote the ends of justice.

41. There is no denying that the two subject Cheques were issued under the MoU dated 15.03.2016 admittedly signed between the parties, while the Complainant took an exit from the Petitioner Company and Rs. 30 crores



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were agreed to be paid to him. The cheques were issued therein and the signatures on the cheques were also admitted. The defence of the petitioner rests on facts allegedly discovered by the Complainant resulting in the two FIRs. The FIRs registered by the Accused may be involving some facts that can be set up as defence in the Complaint under Section 138 NI Act, however, the fate of Complaints under Section 138 cannot be made subject to the fate of the criminal trial in the two FIRs No. 665/2016 & No. 1233/2016. The outcome of trial in the two FIRs is independent of the trial in Complaints under Section 138 NI Act.

42. In view of the aforesaid discussed circumstances the present Petitions do not merit the stay of trial of the two Complaint Cases under S.138 NI Act.

43. The Petitions are without merit and are accordingly, dismissed.

44. The Petitions are accordingly disposed of along with pending Application(s), if any.

**(NEENA BANSAL KRISHNA)  
JUDGE**

**JULY 11, 2024/RS**