



2025:DHC:4581



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

% ***Reserved on: 25th February, 2025***
Pronounced on: 28th May, 2025

+ **CRL.M.C. 9251/2024 & Crl. M.A. 35481/2024**

SUNINDER SANDHA

S/o Sh. J.S. Sandha,
R/o H. No. 20, NRI Complex,
Greater Kailash-IV,
New Delhi-110019

.....Petitioner

Through: Mr. Asim Naeem, Mr. Cherry Gupta and
Ms. Anisa, Advocates.

versus

1. STATE OF NCT OF DELHI

Through its SHO
PS Barakhamba Road

.....Respondent No. 1

2. MR. JEEVESH SABHARWAL

Director/ Authorised Signatory
M/s Concept Horizon Infra Pvt. Ltd.
R/o C-36, Gulmohar Park
New Delhi-110049

.....Respondent No. 2

Through: Mr. Nawal Kishore Jha, APP for the State.
Mr. Adit S. Pujari and Mr. Zeeshan Thomas,
Advocates for R-2.

+ **CRL.M.C. 9252/2024 & Crl. M.A. 35483/2024**

SUNINDER SANDHA

S/o Sh. J.S. Sandha,
R/o H. No. 20, NRI Complex,
Greater Kailash-IV,
New Delhi-110019

.....Petitioner

Through: Mr. Asim Naeem, Mr. Cherry Gupta and
Ms. Anisa, Advocates.

versus

1. STATE OF NCT OF DELHI

Through its SHO
PS Barakhamba Road

.....Respondent No. 1

2. MR. JEEVESH SABHARWAL

Director/ Authorised Signatory



2025:DHC:4581



M/s Concept Horizon Infra Pvt. Ltd.
R/o C-36, Gulmohar Park
New Delhi-110049

.....Respondent No. 2

Through: Mr. Nawal Kishore Jha, APP for the State.
Mr. Adit S. Pujari and Mr. Zeeshan Thomas,
Advocates for R-2.

+

CRL.M.C. 1081/2025 & CRL.M.A. 4904/2025

JEEVESH SABHARWAL
S/o Naresh Sabharwal
Aged about 40 years
R/o C-36, Gulmohar Park,
Delhi-110049

.....Petitioner

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

versus

1. STATE OF NCT OF DELHI

Through, SHO
P.S. Economic Offences Wing
New Delhi

.....Respondent No. 1

2. SUNINDER SANDHA

S/o J.S. Sandha
H. No. 20, NRI Complex,
Greater Kailash-IV,
New Delhi-110019

.....Respondent No. 2

Through: Mr. Shoaib Haider, APP for the State.
Mr. Asim Naeem, Mr. Cherry Gupta
and Ms. Subhani Shabahat, Advocates for
R-2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. The three aforesaid Petitions have been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*previously Section 482 of Cr.P.C.*) assailing the Order dated 23.10.2024 passed by the Ld. M.M. in



Complaint Case No. 48771/2016 and 47692/2016, titled as '*Suninder Sandha vs. Concept Horizon Infra Pvt. Ltd*'.

2. For clarity, Suninder Sandha will be referred to as Complainant and Jeevesh Sabharwal as Accused.

3. **Briefly stated**, sometime in 2011 Complainant/Suninder Sandha reached out to Accused/Jeevesh Sabharwal claiming himself to be having expertise in the field of marketing in real estate Projects. The parties jointly agreed to work on a Project named IRIDIA being built in Noida and developed by a Company namely, 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.

4. In 2013, again Complainant/Suninder Sandha indicated his interest in working further with the Accused/Jeevesh Sabharwal on another Project called Orizzonte. For this purpose, CHIPL was formed and same was incorporated on 02.07.2013. Complainant/Suninder Sandha was to oversee the day-to-day affairs of CHIPL.

5. The parties parted ways in March 2016 pursuant to an MoU dated 16.03.2016. As per MoU Complainant/Suninder Sandha was to receive a total sum of Rs. 27 Crore by way of postdated cheques issued his favour.

6. After taking control of CHIPL, the Accused unearthed a fraud played by the Complainant and got an **FIR No. 665/2016** registered against the Complainant/Suninder Sandha on 07.12.2016 for offences under Section



2025:DHC:4581



406/420/467/468/471 r/w 120-B/34 of the Indian Penal Code 1860 (“IPC”) at P.S. VIKASPURI (now investigated by P.S. EOW).

7. The Complainant/Suninder Sandha furnished post-dated Cheques mentioned in Clause 8 of the MoU, which got dishonoured as per the instructions of the Complainant. The Complainant sent a legal notice on 19.09.2016 seeking payment of Rs.4.75 Crore. Subsequently, he filed *Ct. Cases No. 48771/2016 under Section 138 of the N.I. Act, on 15.10.2016*. The case is approaching the stage of cross-examination.

8. Accused/Jeevesh Sabharwal filed an Application under Section 91 of CrPC 02.05.2024 seeking certain documents which are necessary and desirable for the purpose of cross-examination of the Complainant.

9. The Application was partially allowed *vide* Order dated 23.10.2024, thereby directing the Complainant for producing only two documents out of the List of Documents, as sought by the Respondent.

10. Thus, the present Petitions have been filed by both the parties challenging the said Order.

CRL.M.C. 9251/2024 & CRL.M.C. 9252/2024:

11. The Complainant/Suninder Sandha has sought to challenge the Order dated 23.10.2024 on the ground that there is no need of the said documents for adjudication of the Complaint. Section 91 does not warrant production of any document in the possession of the Complainant or other parties, but only the document which are required during the Trial.

CRL.M.C. 1081/2025:

12. The *Accused/Jeevesh Sabharwal* has sought to challenge the Order on the ground that the Ld. M.M. has wrongly denied production of other



documents merely on the ground that the same are stated to be not in the possession of the Complainant.

13. **Submissions heard and Record Perused.**

14. The Complaint under S.138 NI Act is in relation to the dishonour of three cheques given by the Company under the Agreement executed with the respondent.

15. Section 91 of Cr.P.C. is reproduced as under:

“91. Summons to produce document or other thing:

(1)Whenever any Court or any officer-in-charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.”

16. From a bare reading of the above provision it is manifestly clear, that the two essential elements which are required to be proved by the Applicant are that: (i) it can be invoked ***against the person in whose possession or power*** such document obtained is believed to be and he can be directed to produce the same; and (ii) only those documents shall be called which are ***‘necessary or desirable’*** for the purpose of trial or other proceeding, in the opinion of the court.

17. In *State of Orissa v. Debendra Nath Padhi*, (2005) 1 SCC 568, it has been observed that:-

“...



25. Any document or other thing envisaged under the aforesaid provision can be ordered to be produced on finding that the same is “necessary or desirable for the purpose of investigation, inquiry, trial or other proceedings under the Code”. The first and foremost requirement of the section is about the document being necessary and desirable. The necessity or desirability would have to be seen with reference to the stage when a prayer is made for the production... When the section refers to investigation, inquiry, trial or other proceedings, it is to be borne in mind that under the section a police officer may move the court for summoning and production of a document as may be necessary at any of the stages mentioned in the section... When the section talks of the document being necessary and desirable, it is implicit that necessity and desirability is to be examined considering the stage when such a prayer for summoning and production is made and the party who makes it, whether police or accused...

...

28. We are of the view that jurisdiction under Section 91 of the Code when invoked by the accused, the necessity and desirability would have to be seen by the court in the context of the purpose — investigation, inquiry, trial or other proceedings under the Code. It would also have to be borne in mind that law does not permit a roving or fishing inquiry.”

18. This Court in Sukhmohinder Singh Sandhu vs. CBI, 2010 SCC OnLine Del 2481, observed as under:

“10. This provisions of section 91 Cr. P.C. empower a court to summon or order production of any document which it think necessary or desirable for the purpose of inquiry or trial. The word ‘document’ through not defined in Cr. P.C., however, has been defined in section 3 of Evidence Act and would mean any matter expressed or described upon any substance by means of letter, figures or makes, or by more



than one of those means. The accused under section 91 Cr. P.C. cannot ask the production of documents as a matter of right. However, while making application he has to specify the document and show its relevance. He cannot ask the court to make roving and fishing enquiry as has been done in the applications under consideration. Only when he discloses the nature of document and its relevance, the court to decide if the documents sought to be summoned was necessary or desirable for the just decision of the case.”

19. The documents sought by the Accused are as under:

| Sr. No. | Documents Sought by Accused No. 2 from Complainant/Close Relatives | Response of Complainant | Findings of Ld. MM |
|----------------|--|---|---|
| 1. | The Control of CRM and IT Data hosted with URL http://horizonconceptl5ll.realboost.in and all other documents maintained by the Complainant pertaining to the day-to-day functioning of the Complainant during his employment with CHIPL. [From Complainant] | Not in the possession of the Complainant. It is further submitted that the Investigating Agency has already investigated regarding the same and found nothing. Furthermore, the URL mentioned by the Accused Persons have become redundant as the same is not active now. | This court is of the opinion that since the URL link has become redundant, no purpose would be served in calling for its data. As far as all the relevant documents relating to functions performed by the complainant during his employment in accused company are concerned, the same are expected to be maintained by the accused company and should be in their possession. |



| | | | |
|----|--|---|---|
| 2. | Documents related to the employment of the Complainant with CHIPL. [From Complainant & Close Relatives] | Document sought is irrelevant for the present case. The Accused Persons are very well aware about the employment of the Complainant with the accused company and even otherwise, it is company of the Accused Persons and they are fully aware about their employees and their details. | This court is of the opinion that as all the relevant documents relating to employment of the complainant with the accused company are expected to be maintained by the accused company and should also be in their possession. |
| 3. | List of all buyers from whom cash was collected in CHIPL's name; Documents related to Complainant's interaction with CHIPL. [From Complainant] | Document sought is not in possession of the Complainant. As already handed over the same to the Accused Persons. | Same are stated not to be in the possession of the complainant therefore, same cannot be directed to be produced as per the mandate of Section 91 Cr.P.C. |
| 4. | Documents related to the employment of Mr. Arjun Chaudhary, Mr. Naveen Chaudhary, Mr. Jasmitter Sandha and Ms. Dipti Sandha and their roll while they were handling the affairs of CHIPL/Accused No. | Document sought is neither in possession of the Complainant and nor is relevant. Mr. Arjun Chaudhary, Mr. Naveen Chaudhary, Mr. Jasmitter Sandha, Ms. Deepti | This court is of the opinion that as the same are stated not to be in the possession of the complainant therefore, same cannot be directed to be produced as per the mandate of Section 91 Cr.P.C. Moreover, the details of the employees sought by |



| | | | |
|----|--|---|---|
| | 01 in the subject case. | Sandha, are not party in the present complaint. Moreover, it is the company of Accused Persons and they are very well aware of their employees. | the accused are not party to the present offence under section 138 of NI Act, 1881. Any detail qua any employee of the accused company is expected to be within the possession of the accused company. |
| 5. | Receipts and any available documentation pertaining to the twenty five cheques issued by the allottees which were supposed to be issued to CHIPL against the sale of units in the project 'Orizzonte', which were instead issued to Concept Capital Infra Projects Pvt. Ltd. | Document sought is not in possession of the Complainant. | Same are stated not to be in the possession of the complainant therefore, same cannot be directed to be produced as per the mandate of Section 91 Cr.P.C. |
| 6. | Income Tax returns along with audited balance sheets and its complete schedules for the Financial year 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017. | Document sought is irrelevant for the present case. Furthermore, it is not clear as to whose ITRs along with audited balance sheets are sought by Accused Persons. Also, the legally enforceable debt in the present | Same have not been denied to be in possession of the complainant and it appears to this Court that these documents will be necessary for the adjudication of the present matter, hence, the instant application qua these documents is partly allowed. |



| | | | |
|----|---|--|---|
| | | complaint is by way of MoU dated 16.03.2016 and hence, ITRs has no role to play. | |
| 7. | Original Electricity bill of House No. 22, NRI Complex, GK-IV, New Delhi, which was used as 'the address proof to open starlet account' | Document sought is neither in possession of the Complainant and nor is relevant. As the same does not pertain to his property. | The same are stated not to be in the possession of the complainant therefore, same cannot be directed to be produced as per the mandate of Section 91 Cr.P.C. |
| 8. | Correspondence/com munication of Complainant with Mr. Jeevesh Sabharwal seeking approval price regarding sale of units by CHIPL | Documents sought is irrelevant for the present case. It is pertinent to note here that very surprisingly, the accused no. 2 is seeking | The said correspondence was between the accused no. 2 and the complainant, hence, it is expected to be within the possession of accused |
| 9. | Correspondence/com munication of Complainant with Mr. Jeevesh Sabharwal whereby the Complainant informed Mr. Jeevesh Sabharwal about the transactions regarding money taken in cash from allottees who invested in CHIPL projects and the same being deposited in the bank account of | correspondences between Complainant and himself and then saying it is not in his own possession which is wholly irrational and illogical and manifests the ill intention of Accused Persons. | |



| | | | |
|-----|---|---|---|
| | CHIPL | | |
| 10. | Proof of deposit of cash taken from buyers in CHIPLs name | Document sought is not in possession of the Complainant. As he was not dealing with the same | Same is stated not to be in the possession of the complainant therefore, same cannot be directed to be produced as per the mandate of Section 91 Cr.P.C. |
| 11. | Proof of transactions regarding money taken from allottees who invested in CHIPL projects and the same being deposited in the bank account of CIDPL. Any proof confirming that Mr. Jeevesh Sabharwal was made aware of these cash transactions. | Document sought is not in possession of the Complainant. Furthermore, the bank account of accused company is totally in control of Accused Persons, then, how the Complainant would be possessing documents pertaining to the same. | The same are stated not to be in the possession of the complainant therefore, same cannot be directed to be produced as per the mandate of Section 91 Cr.P.C. Moreover, list of all the clients dealing with the accused company should be ordinarily maintained by them. |
| 12. | Bank statements of account(s) of Concept Capital Infra Projects Pvt. Ltd. from the year 2012-2016. | Document sought is irrelevant for the present case. As Concept Capital Infra Projects Pvt. Ltd. has nothing to do with this case. | Bank statements of account(s) of Concept Capital Infra Projects Pvt.Ltd. is sought. However, this court is of the opinion that the same are not necessary for the just decision of the case as Concept |



| | | | |
|-----|---|--|---|
| | | | Capital Infra Projects Pvt. Ltd. is not a party in the present matter. |
| 13. | Bank statements of Bank Account No.913020022627619 Which came to be fraudulently opened at Axis Bank, Vikaspuri from The year 2012-2016 | Document sought is not in possession of the Complainant as he has nothing to do with the same. | Same is stated not to be in the possession of the complainant therefore, same cannot be directed to be produced as per the mandate of Section 91 Cr.P.C. |
| 14. | Bank Statement of Account of Complainant at HDFC Bank, 3NRI Complex, Greater Kailash-IV, New Delhi, 110019 | Document sought is irrelevant for the present case. As it is not the case of Complainant that he has given some loan, etc. to the Accused Persons from his bank account. | Same have not been denied to be in possession of the complainant and it appears to this Court that these documents will be necessary for the adjudication of the present matter, hence, the instant application qua these documents is partly allowed. |
| 15. | Bank Statements, Articles of Association, Memorandum of Association, Annual Returns of companies associated with the Complainant along with their audited balance sheets with complete schedules, and close | Document sought is neither in possession of the Complainant and nor is relevant. The Complainant is not connected with the companies mentioned from Sr. No. (d) to (h) in any manner whatsoever. | Same is stated not to be in the possession of the complainant therefore, same cannot be directed to be produced as per the mandate of Section 91 Cr.P.C. |



| | | | |
|--|---|--|--|
| | <p>relatives of the Complainant including:</p> <ul style="list-style-type: none">a. M/s Concept Capital Infra Projects Pvt. Ltd. from the year 2012-2017b. M/s Concept Infravision Pvt. Ltd. from the year 2012-2017c. M/s Ping Media Pvt. Ltd. from the year 2012-2017d. M/s Scarlett Hospitality from the year 2012-2017e. M/s Atma Ram Amarnath from the year 2012-2017f. M/s CFG International Pvt. Ltd. from the year 2012-2017g. M/s Blue Star Build Prop Pvt. Ltd. from the year 2012-2017 | | |
|--|---|--|--|



| | | | |
|-----|---|---|---|
| | h. M/s Ahuja and Anand Buildwell Pvt. Ltd. from the year 2012-2017 | | |
| 16. | Account Ledgers certificates and other details related to transactions between- M/s Concept Infravision Pvt. Ltd. and M/s Atma Ram Amarnath, M/s CFG International Pvt. Ltd., M/s Blue Star Build Prop Pvt. Ltd. and M/s Ahuja and Anand Buidlwell Pvt. Ltd., supported with Bank statements related to these transactions. | Document sought is neither in possession of the Complainant and nor is relevant. | Same is stated not to be in the possession of the complainant therefore, same cannot be directed to be produced as per the mandate of Section 91 Cr.P.C. |
| 17. | Bank statement reflecting the transactions to the loan given by M/s Concept Infravision Pvt. Ltd. to M/s Atma Ram Amarnath, M/s CFG International Pvt. Ltd., M/s Blue Star Build Prop Pvt. Ltd. and M/s Ahuja and Anand Buildwell Pvt. Ltd qua the amount reflected in | | |



| | | | |
|--|---|--|--|
| | the balance sheet of infra vision (balance sheet year ending March 2014) | | |
|--|---|--|--|

20. The Ld. M.M. while considering the relevance of these documents for the purposes of the trial, has allowed production of documents at Serial number 6 & 14 by observing as under:

“However, qua the documents mentioned at serial no. 6 and 14 are concerned, the same have not been denied to be in possession of the complainant and it appears to this Court that these documents will be necessary for the adjudication of the present matter, hence, the instant application qua these documents is partly allowed.”

21. The two documents are the Income Tax Returns and the Bank Statements, have rightly been held to be the relevant documents for adjudication of the Complaint under S.138 NI Act. The challenge by the Complainant to the impugned Order dated 23.10.2024 directing production of these two documents has no merit and the CRL.M.C. 9251/2024 & 9252/2024 of the Complainant has no merit.

22. The all other documents listed from Serial number 1 to 17 (except at Serial No.6 & 14) have been denied to be produced by the Respondents.

23. The document at *Serial number 1*, the Control of CRM and IT Data hosted with URL, has been rightly denied by the Learned MM since this URL link has become redundant and no purpose would be served in calling for its data.



2025:DHC:4581



24. The documents at *Serial number 2*, relating to employment of the Complainant with CHIPL, have been rightly denied by observing that these documents would also be in power and possession of the Complainant.

25. The documents at *Serial numbers 3,4,&5* pertain to the list of buyers from whom cash was collected in CHIPL's name; Documents relating to the employment of various employees and their roll while handling the affairs of CHIPL; and the receipts and documentation in regard to twenty five cheques issued by the allottees in favour of CHIPL against the sale of units. As can be made out these documents pertain to the affairs of the Company CHIPL and cannot be in any manner considered material or relevant for adjudication of the present complaint under Section 138 NI Act.

26. The document at *Serial number 7* is original Electricity Bill installed at GK-IV, New Delhi as proof of the address of open Starlet account but again no relevance of the same has been shown by the accused. Likewise, the documents at *Serial numbers 8 & 9* pertaining to correspondence between the Complainant and the accused, which again are irrelevant. Moreover, as observed by the Learned MM these are communications between the Complainant and the accused which must be in power and possession of the accused, with which he can confront the Complainant during the cross-examination. These documents have also been rightly denied by the Learned MM.

27. The documents at *Serial number 10* are a proof of deposit of cash taken from the buyers in the name of the Company and the documents at *Serial number 11* are a proof of transactions regarding money taken from the allottees who invested in CHIPL. Again the relevance of these documents in



2025:DHC:4581



adjudication of the Complaint under Section 138 NI Act has not been explained by the accused in the Application under Section 91 Cr.P.C cannot be used by the accused to as blanket Application to get all the documents pertaining to the affairs of CHIPL. These documents have again been rightly, denied by the Learned MM.

28. The documents at *Serial number 12* are the Bank statements of CCIPL from 2012-2016. The documents at *Serial number 13* are the Bank statements account opened at Axis bank, Vikaspuri from 2012-2016.

29. The statement of HDFC bank, sought at *Serial Number 14*, has been rightly allowed and the Complainant directed to produce the same. However, the relevance of the other bank accounts of the Complainant cannot be considered either relevant or material for the present Petition and have been rightly denied for the same reasons.

30. The documents at *Serial number 15* which pertains to Bank Statements, Memorandum of Association, Annual Returns of the companies associated with the Compliant and the audited Balance Sheets of the Complainant and its various Companies as stated herein, have been rightly denied.

31. The documents at *Serial number 16* which are the Account Ledgers certificates of CIPL and other Companies and the documents at *Serial number 17* pertain to Bank Statement reflecting loan transaction of CCIPL, are again the documents which cannot be considered necessary for adjudication of the complaint under Section 138 NI Act. These documents have therefore, been rightly denied to the accused persons.



2025:DHC:4581



32. The documents, other than those at *Serial number 6 & 14*, production of which is sought by the Accused person, are neither necessary nor required for the proper adjudication of the complaint case filed by the Complainant herein under Section 138 N.I. Act. and are also stated to be not in the possession of the Complainant.

Conclusion:

33. There is no merit in the aforesaid Petitions which are hereby dismissed. The pending Application(s), if any, are disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

MAY 28, 2025