



2026:DHC:6954



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

Reserved on: August 07, 2026

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Pronounced on: August 20, 2026

CNR No. DLHC010170182026

+ **CRL.M.C. 3065/2026, CRL.M.A. 12476/2026, CRL.M.A. 12477/2026, CRL.M.A. 12478/2026**

K.S. MALIK

.....Petitioner

Through: Mr. Sharwan Tiwari and Mr. Gupesh Tripathi, Mr. Hem and Ms. Aarti Minj, Advs.

Versus

MOHD. FAROOQ & ANR.

.....Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. As per facts involved, the respondent no.1 had filed a complaint under *Section 138* of the Negotiable Instruments Act, 1881¹ against the petitioner before the learned JMFC, NI Act (01), North District, Rohini Courts². Subsequently, through an application under *Section 311* of the Code of Criminal Procedure, 1973³ before the learned Trial Court, respondent no.1 sought permission to examine two new witnesses as also documents that came to be allowed *vide* order dated 24.02.2025. Being aggrieved, the petitioner filed a revision petition thereagainst before the

¹ Hereinafter referred as "*NI Act*"

² Hereinafter referred as "*Trial Court*"

³ Hereinafter referred as "*CrPC*"



learned Additional Sessions Judge, North, Rohini Courts⁴, which, came to be dismissed *vide* impugned order dated 29.10.2025. Resultantly, the order dated 24.02.2025 passed by the learned Trial Court has been affirmed.

2. Now, by virtue of the present petition under *Section 528* of the Bharatiya Nagarik Suraksha Sanhita, 2023⁵/ *Section 482* of the CrPC, the petitioner seeks setting aside the order dated 29.10.2025 passed by the learned ASJ, whereby the learned ASJ dismissed the revision petition filed by the petitioner and affirmed the order dated 24.02.2025 passed by learned Trial Court allowing the respondent no.1's application under *Sections 348/ 311 BNSS/ CrPC*.

3. Considering the petitioner herein has filed the present petition under *Section 528* of the BNSS/ *Section 482* of the CrPC against an order passed by a Revisional Court/ learned ASJ under *Section 397* CrPC in the nature of an appeal, the same raises an issue of maintainability, especially, *[i]* as there is no express provision for the same anywhere in the Statutes, be it the CrPC and/ or the existing BNSS; and *[ii]* in the wake of provisions contained in *Section 397(3) CrPC/ Section 438(3) BNSS* and *Section 399(3) CrPC/ Section 440(3) BNSS* expressly barring a second revision by the same party; and *[iii]* since the learned ASJ has already exercised its revisional jurisdiction under *Section 397 CrPC/ Section 438 BNSS*.

4. This Court has heard learned counsel for the petitioner, as also gone through the documents/ materials on record.

5. As borne out from the materials on record, it is primarily the case of the petitioner that the learned ASJ erred by not considering that there were

⁴ Hereinafter referred as "*ASJ*"

⁵ Hereinafter referred as "*BNSS*"



no foundational facts in the complaint made by the respondent no.1 so as to call for new witnesses and establish a different case altogether that too in a summary proceeding under the NI Act.

6. In fact, it is in furtherance of the above that the learned counsel for the petitioner has addressed his arguments.

7. Since it entails therefrom that the present petition is nothing but a challenge in the form of an appeal to the impugned order passed by the Revisional Court, this Court is to proceed accordingly.

8. Such a petition under *Section 528* of the BNSS/ *Section 482* of the CrPC is *per se* not maintainable in the eyes of law, particularly, in view of clear demarcations introduced by the Legislature in the distinct remedy of revision under *Section 397* from that of an appeal under *Section 372*, and from that of the “*inherent powers*” of the High Court under *Section 482* in the CrPC, while incorporating it in the year 1973. In fact, the same has also been consciously retained in similar provisions of the BNSS by substituting them with the corresponding provisions of *Sections 438, 413* and *528* of the BNSS respectively. This was purely intended to prevent repetitive and frivolous litigation(s).

9. Moreover, the “*inherent powers*” of this Court as preserved under *Section 528* of the BNSS/ *Section 482* of the CrPC cannot also be invoked by the petitioner herein as a matter of right, much less, to subvert the existing salient provisions of the Statute i.e. the CrPC/ now existing BNSS. A simple challenge by way of a petition under *Section 528* of the BNSS/ *Section 482* of the CrPC is itself not sufficient. The petitioner cannot be allowed to seek benefit thereof in the form of an appeal thereunder to somehow circumvent the bar imposed under *Section(s) 372, 397, 397(3)*,



399(3) and 482 of the CrPC/ *Section(s) 413, 438, 438(3), 440(3) and 528 of the BNSS*, respectively.

10. Exercise under *Section 528 of the BNSS/ Section 482 of the CrPC*, and that too against an order passed by a Revisional Court, can only be possible, if there is an abuse of process of law and/ or it is necessary for securing the ends of justice and/ or if there has been a miscarriage of justice and/ or if there is a non-compliance of any mandatory provision(s) of law and/ or if there is ignorance of material(s) on record and/ or if there is something of a like nature, by the Court below, while exercising its revisional jurisdiction.

11. In fact, the Hon'ble Supreme Court in *Amar Nath v. State of Haryana*⁶, while dealing with the express bar *qua* interlocutory order under *Section 397(2) CrPC*, has expressed that “... ..*It is well settled that the inherent powers of the Court can ordinarily be exercised when there is no express provision on the subject-matter. Where there is an express provision, barring a particular remedy, the Court cannot resort to the exercise of inherent powers.*”.

12. Similarly, the Hon'ble Supreme Court in *Madhu Limaye v. State of Maharashtra*⁷ has expressly laid down the following principles in relation to exercise of the inherent powers of the High Court as under:-

“(1) *That the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party;*

⁶ (1977) 4 SCC 137

⁷ (1977) 4 SCC 551



(2) *That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice;*

(3) *That it should not be exercised as against the express bar of law engrafted in any other provision of the Code.”*

[Emphasis Supplied]

13. As apparent therefrom, though inherent jurisdiction under *Section 528* of the BNSS/ *Section 482* of the CrPC can be invoked, however, not as a blanket rule under all circumstances since the scope thereof has not been expanded and a party like the petitioner herein has to satisfy this Court whether or not the case set out by him falls within the narrow category therein.

14. Moving ahead to the facts herein, this Court finds that there are no submissions made and/ or grounds raised and/ or submissions addressed by learned counsel for the petitioner in support thereof, which fall within the ambit of this Court to exercise its “*inherent powers*” under *Section 528* of the BNSS/ *Section 482* of the CrPC, and that too against a judgment passed by the learned ASJ, while exercising its revisional jurisdiction under *Section 397* CrPC.

15. In any event, on merits also, this Court finds that the learned ASJ *vide* the impugned order dated 29.10.2025, has duly negated/ dealt with all the contentions sought to be raised by the petitioner herein by a well-reasoned impugned order, relevant extracts whereof are reproduced as under:-

“6. *The matter is admittedly at the stage of complainant’s evidence and through the proposed CW Firoz, the complainant wants to prove that the cheques in question were issued in his presence. In the considered opinion of this*



Court, the complainant is within his right to do so. The effect of non-mentioning of the above said fact in the complaint or in the affidavit in evidence of the complainant can be seen only during the trial after evidence is led by CW Firoz and his cross examination is done on behalf of the revisionist/accused. Similarly, the plea that CW Firoz was not maintaining books of accounts of the complainant is also a disputed question of fact which can be considered only after evidence is led by CW Firoz and his cross examination is done.

7. Through the witness from Axis Bank, the complainant seeks to prove that he was having regular business dealings/ transactions with the revisionist/accused. In the considered opinion of this Court, the complainant is within his right to do so as well.”

16. Even otherwise, as held by the Hon’ble Supreme Court in ***Vijay Kumar v. State of Uttar Pradesh***⁸ and ***Swapan Kumar Chatterjee v. CBI***⁹, it is trite that the power vested under *Section 311 CrPC* is a vast one that can be used at any stage of a trial, including summoning a witness who has not been formally summoned. The same can be exercised, if the Court, based on its discretion, in light the facts and circumstances involved, forms an opinion that the examination of such a witness is indeed essential for a just decision of a case.

17. Thus, the petitioner cannot be allowed to circumvent the existing position of law, especially, in view of the law as enunciated by the Hon’ble Supreme Court in ***Amar Nath (supra)*** and ***Madhu Limaye (supra)***. In the wake of above, there is nothing which calls for any interference of this

⁸ (2011) 8 SCC 136

⁹ (2019) 14 SCC 328



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Court in this petition under *Section 528* of the BNSS/ *Section 482* of the CrPC. Moreover, the present petition cannot be entertained since there is no provision for a *second revision* under the BNSS/ CrPC.

18. Accordingly, the present petition alongwith the pending applications, being not maintainable, is dismissed in *limine*.

SAURABH BANERJEE, J.

AUGUST 20, 2026/Ab/Aks