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

No. 4318-4330/DHC/Gaz.IB/G-2/HC-Judgment/2025 Dated: 06.08.2025

From :

The Registrar General,
High Court of Delhi,
New Delhi.

To

1. The Principal District & Sessions Judge (HQ), Tis Hazari Courts Complex, Delhi.
2. The Principal District & Sessions Judge (New Delhi), Patiala House Courts Complex, New Delhi.
3. The Principal District & Sessions Judge (South-West), Dwarka Courts Complex, New Delhi.
4. The Principal District & Sessions Judge (North-East), Karkardooma Courts Complex, Delhi.
5. The Principal District & Sessions Judge (North-West), Rohini Courts Complex, Delhi.
6. The Principal District & Sessions Judge (South-East), Saket Courts complex, Delhi.
7. The Principal District & Sessions Judge (Shahdara), Karkardooma Courts Complex, Delhi.
8. The Principal District & Sessions Judge-cum-Special Judge (PC Act) (CBI), RACC, New Delhi.
9. The Principal District & Sessions Judge (North), Rohini Courts Complex, Delhi.
10. The Principal District & Sessions Judge (East), Karkardooma Courts Complex, Delhi.
11. The Principal District & Sessions Judge (South), Saket Courts Complex, New Delhi.
12. The Principal District & Sessions Judge (West), Tis Hazari Courts Complex, Delhi..
13. The Principal Judge (HQ), Family Courts, Dwarka, New Delhi.

Sub : **Judgment dated 15.07.2025 passed by Hon'ble High Court of Delhi in Crl. Rev. P. 684/2024 & Crl.M.A 15729/2024 titled "B.D Sharma vs. State of NCT of Delhi & Anr"**

Sir/ Madam,

I am directed to forward herewith a copy of Judgment dated 15.07.2025 passed by Hon'ble High Court of Delhi in Crl. Rev. P. 684/2024 & Crl.M.A 15729/2024 titled "B.D Sharma vs. State of NCT of Delhi & Anr", and to request you to circulate the same amongst all the Judicial Officers working under your respective control for information and necessary compliance.

Yours faithfully,

(Vinay Sharma)
Deputy Registrar (Gazette-IB)
For Registrar General.

**OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE: ROHINI COURTS, DELHI**

No. 27203-27287/Genl.I/F.3A /N-W & N/RC/2025 Dated 12/08/2025

Copy alongwith its enclosures, forwarded **(through electronic mode)** for information & necessary action/compliance, to :-

1. All Ld. Judicial Officers posted at **N/W & North**, Rohini Courts, Delhi.
2. The personal office of Ld. PD&SJ, **N-W & North**, Rohini Courts, Delhi.
3. The Branch In-Charge, Judicial Branch **N/W & North,** Rohini Courts, Delhi.
4. Dealing Official, Computer Branch, Rohini Courts for uploading the same on WEBSITE.
5. The Dealing Official, R & I Branch, Rohini Courts, Delhi for uploading the same on LAYERS.

**(SUSHIL KUMAR)**
Link Officer In-Charge, General Branch-I
North-West & North District
Rohini Court Complex, Delhi

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

% *Judgment delivered on: 15.07.2025*

\+ **CRL.REV.P. 684/2024 & CRL.M.A. 15729/2024**

B.D. SHARMA .....Petitioner

Through: Mr. Chander Pradha and Mr. Rishi Jaiswal, Advs.

versus

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

Through: Mr. Rajkumar, APP for the State.
Mr. Kapil Gupta, Ms. Akshana Nath, Mr. Shashank Aggarwal and Mr. Pushpendra Jadon, Advs. for R-2.

**CORAM:**
**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA**

**JUDGMENT**

**DR. SWARANA KANTA SHARMA, J**

1. The present revision petition has been filed by the petitioner, impugning the order dated 26.04.2024 passed by the learned Additional Sessions Judge-07, South East District, Saket Court, New Delhi (hereafter '*the learned ASJ*'), *vide* which the learned ASJ had refused to condone the delay of 90 days in filing the appeal against the judgment dated 06.12.2023, *vide* which the petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereafter '*NI Act*') and order on



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sentence dated 18.12.2023, *vide* which the petitioner had been sentenced to undergo imprisonment till the rising of the Court, and further directed to pay compensation of ₹7,00,000/-, passed by the learned Magistrate.

2. The brief facts of the instant petition are that the petitioner had taken a property situated at Manesar, Gurugram, on lease for a period of three years from the complainant, *vide* an unregistered agreement executed in November 2017. A monthly rent of ₹1,10,000/–, with a 10% annual increase, had been fixed. The petitioner had handed over 36 blank signed cheques to respondent No. 2, which had been used to receive the monthly rent. It was the complainant's case that, at the request of the petitioner, who had claimed to have suffered financial losses, the rent had been reduced to ₹90,000/- per month, and cheques for this reduced amount had been cleared. However, the complainant had thereafter allegedly started misusing the blank cheques and had presented a cheque for ₹1,21,000/-, as well as three cheques amounting to ₹8,79,905/-, which had been dishonoured. A complaint had also been filed against the complainant in this regard. The petitioner had vacated the said property in April 2020. Despite this, the complainant had presented five cheques of ₹1,19,790/- each, out of which three dated 13.04.2020 and two dated 13.06.2020 had been dishonoured. Alleging that the complainant had acted with an ulterior motive to extort money, the petitioner had contended that a criminal complaint under Section 138 of the NI Act had been filed by the complainant. During trial, while evidence had been led from both



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sides and the matter had been fixed for final arguments, arguments on behalf of the complainant had already been addressed. The matter had then been fixed for arguments on behalf of the accused on 10.05.2023, and subsequently for judgment/clarification on 31.05.2023. In the meantime, the learned Predecessor Judge had been transferred and was succeeded by another Presiding Officer. The learned Successor Judge had, *vide* order dated 03.06.2024, insisted on rehearing final arguments, and fixed the matter for final arguments afresh on 06.07.2023. Final arguments on behalf of the complainant had concluded on 13.09.2023, and the matter had been listed for arguments on behalf of the petitioner. While the matter was at that stage, the petitioner's counsel had sought adjournments on 07.10.2023, 11.10.2023, and 17.10.2023. Upon realizing that his counsel was not in a position to argue, the petitioner had engaged a new counsel, who had filed her vakalatnama on 25.10.2023. On the same date, the learned Court had passed the following order:

> "Ld. Counsel for accused seeks an adjournment on the ground that she has been recently engaged. Heard.
>
> From perusal of record, it is evident that this matter is running at the stage of final arguments for last five months approximately and complainant is a Sr. Citizen. Moreover, repeated opportunities have been granted to accused to address final arguments.
>
> Despite the fact that last opportunity was granted to accused at last date of hearing, adjournment is being sought on the ground of engagement of new counsel.
>
> Taking the facts and circumstances into consideration, opportunity of the accused to argue the matter stands closed. However, he is at liberty to file written submissions if any with advance copy to the opposite side by the next date of hearing.



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> Matter be put up for clarification if any orders on 08.11.2023 at 2PM."

3. The learned counsel for the accused had not been able to obtain certified copies of the relevant documents. On 08.11.2023, an application seeking adjournment on the ground of non-availability of the case file had been filed. The application had been taken on record, and the next date had been fixed as 22.11.2023. The case file had remained in the possession of the learned Trial Judge, as she had been in the process of dictating the judgment. On 16.11.2023, the certified copy had still not been made available, and the matter had been again listed for 22.11.2023. On that date, the copying agency had directed the counsel to return on 28.11.2023 to collect the certified copy. However, the copy had not been provided till date. On 22.11.2023, another application for adjournment had been filed by the learned counsel for the accused, but the learned Trial Court had refused to take it on record. The matter had thereafter been adjourned for pronouncement of judgment without affording the accused an opportunity of hearing. In this context, the following order had been pointed out by the learned counsel for the accused:

> " 22.11.2023
>
> Present:- Sh. Dharmendra Arya and Ms. Akshama Nath, Ld. Counsels for complainant.
>
> Sh. Parv Kumar, Ld. Counsel for accused.
>
> Let the matter be put up for purpose already fixed on 06.12,2023 at 2PM."

4. Aggrieved by the alleged prejudicial conduct of the learned



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Trial Court, the learned counsel for the accused had moved an application before the learned Chief Metropolitan Magistrate, South-East District, New Delhi, seeking transfer of the case to another Court. The said application had been dismissed by the learned CMM on 04.12.2023. Thereafter, another transfer application had been preferred on 05.12.2023 before the learned Sessions Judge, South-East District, Saket Courts, New Delhi. In the meantime, the matter had been listed before the learned Trial Court on 06.12.2023, where the learned counsel for the accused had been informed that the petitioner had already been convicted, and the matter had been posted for arguments on sentence on 14.12.2023. On the said date, the learned counsel for the accused had been compelled to argue on the issue of quantum of sentence without access to the case file. The matter had thereafter been listed for pronouncement of order on sentence on 18.12.2023, when the petitioner had been sentenced to imprisonment till the rising of the Court and directed to pay compensation of ₹7,00,000/-. Consequently, the pending transfer application had become infructuous and had been withdrawn on 10.01.2024. The petitioner had thereafter approached this Court by filing a petition under Section 482 of the Code of Criminal Procedure, 1973, seeking ex parte ad interim stay of the judgment dated 06.12.2023 and the order on sentence dated 18.12.2023. After hearing arguments, notice had been issued to respondent no. 2 on 24.01.2024. However, the application for stay had been dismissed on the ground that the learned Trial Court had already taken a lenient



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view while sentencing the petitioner.

5. In the meanwhile, the complainant had filed an application under Section 421 of the Cr.P.C. before the learned Trial Court, seeking release of the compensation amount of ₹7,00,000/-, and notice thereof had been received by the petitioner. In response, the petitioner had filed an application before this Court seeking stay on the adjudication of the said execution application. However, the said application had been dismissed by this Court vide order dated 01.03.2024. Aggrieved thereby, the petitioner had preferred a Special Leave Petition before the Hon'ble Supreme Court, which had also been dismissed *vide* the following order:

> "Having heard learned counsel for the petitioner(s), we are not inclined to interfere with the impugned judgments and orders.
>
> The special leave petitions are, accordingly, dismissed. Pending application(s), if any, shall also stand disposed of."

6. Thereafter, the petitioner had preferred an appeal before the learned Sessions Judge, South-East District, challenging the judgment of conviction dated 06.12.2023 and the order on sentence dated 18.12.2023. The said appeal had been filed on limited grounds, with liberty reserved to file a detailed appeal upon receipt of the Trial Court record. However, by the impugned order dated 26.04.2024, the learned Additional Sessions Judge had dismissed the appeal, declining to condone the delay in filing. Consequently, the petitioner had withdrawn the petition earlier filed before this Court.

7. Being aggrieved by the impugned order dated 26.04.2024



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passed by the learned ASJ, the present petition has been filed before this Court.

8. The learned counsel for the petitioner submits that the impugned order deserves to be set aside and the matter may be remanded to the concerned Trial Court, so as to afford the petitioner a fair opportunity to address his final arguments, which were denied to him despite repeated efforts. It is contended that the petitioner was constrained to approach the Hon'ble Supreme Court in relation to the dismissal of his stay application, and that such parallel proceedings did not conflict with or preclude the filing of the appeal before the Sessions Court. It is further argued that the delay in preferring the appeal was neither intentional nor due to any lapse on part of the petitioner. The delay, he submits, was occasioned by circumstances beyond the petitioner's control, including the consistent non-supply of certified copies of the trial court record despite multiple visits, and the abrupt unavailability of his erstwhile counsel at the critical stage of final arguments. The petitioner, upon realizing the situation, immediately engaged a new counsel, who also faced difficulties in obtaining the record. It is thus urged that the delay ought to have been condoned by the learned Appellate Court in the interest of justice, and that denying the petitioner a meaningful opportunity of hearing on account of such technicalities would result in grave prejudice.

9. The learned counsel appearing for the respondent opposes the present petition and supports the impugned order passed by the learned Additional Sessions Judge, contending that no sufficient



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cause has been shown for condoning the delay. It is further contended that the petitioner had ample opportunity to address final arguments before the learned Trial Court but failed to utilize the same. The repeated adjournments sought by the petitioner's counsel, despite the matter being at the stage of final arguments, clearly indicate that the petitioner was trying to cause intentional delays. The learned Trial Court, having waited sufficiently, rightly proceeded to pronounce judgment. It is also argued that the petitioner had already availed multiple legal remedies, including filing petitions before this Court and even approaching the Hon'ble Supreme Court, but failed to seek appropriate relief within time with respect to the conviction. The filing of the appeal with delay after availing all other remedies appears to be an afterthought. It is submitted that the learned Appellate Court has rightly exercised its discretion in refusing to condone the delay, especially when no cogent or bona fide reason was made out. The impugned order, it is argued, calls for no interference.

10. This Court has **heard** the arguments advanced by the learned counsel for both the parties, and perused the material on record.

11. After hearing the arguments and perusing the record, this Court is of the opinion that the delay cannot be condoned since the order of the learned Magistrate clearly shows that she has given several opportunities to the learned counsel for the accused to address arguments.



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12. Even if the certified copy of the record was not made available in time, the petitioner could have moved an appropriate application either before the learned Trial Court or before the District & Sessions Judge, explaining the difficulty and seeking necessary directions. There is no explanation as to why such a course was not adopted. Furthermore, it is not the petitioner's case that the case file was unavailable to him, particularly when his former counsel had already concluded final arguments on his behalf. There is no allegation that the previous counsel had withheld the file or failed to cooperate.

13. This Court finds that the delay in the present case is attributable to the conduct of the petitioner himself. Despite being granted adequate time, the petitioner failed to argue the matter through his new counsel and did not even file written submissions as directed. This pattern of conduct indicates a lack of diligence and a deliberate attempt to delay the outcome of the case.

14. What is also disquieting is the fact that, as per the record, the matter had already been listed for pronouncement of judgment when there was a change in the Presiding Officer. It is well settled that when a judgment has been reserved, it is the duty of the same Presiding Officer to pronounce it, unless prevented by exceptional circumstances. The successor Court, in such circumstances, ought to have referred the matter back to the predecessor Judge through the learned District & Sessions Judge for pronouncement or appropriate directions. This procedural lapse has further contributed to the confusion and delay in adjudication.



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15. It is a classical case where the delay in proceedings under Section 138 of the NI Act has been caused not only by the accused but also by the oversight of the Presiding Officer. The legislative intent behind the Act is to provide a prompt and effective remedy to ensure the credibility of financial instruments such as promissory notes, bills of exchange, and cheques. Any deviation from procedural discipline defeats the very purpose of the legislation and weakens the effectiveness of the statutory mechanism intended to ensure the reliability and prompt enforcement of financial instruments.

16. In the present case, the defence evidence of the petitioner was closed on 23.02.2023, and the matter was listed for final arguments on 23.03.2023. However, it is evident from the record that, repeatedly and over an extended period, adjournments were sought on behalf of the petitioner on one pretext or the other. Despite being granted sufficient latitude, the petitioner failed to conclude arguments, thereby protracting the proceedings unnecessarily.

17. This Court notes that the learned Trial Court had granted as many as 20 opportunities to the petitioner to advance final arguments. Thus, the submission of the learned counsel for the petitioner that no fair opportunity was afforded lacks merit and is contradicted by the procedural history of the case. The record unmistakably reflects that more than adequate opportunities had been provided.

18. The explanation offered by the petitioner that the newly engaged counsel was not afforded an opportunity to argue the matter



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is also devoid of substance. There is nothing on record to suggest that the petitioner was prevented from obtaining the case file from the previous counsel. The petitioner cannot be permitted to take advantage of a change in legal representation as a ground to re-open proceedings that had already reached an advanced stage. To accept such a plea would be to set a dangerous precedent that encourages litigants to stall proceedings by frequently changing legal counsel under the guise of seeking a fair hearing.

19. Moreover, it is not in dispute that the impugned orders were passed in the presence of the petitioner, and he was fully aware of the same. His subsequent attempts to challenge these proceedings, including three separate approaches to this Court and one before the Hon'ble Supreme Court, were all unsuccessful, and no relief was granted. In particular, this Court had already declined to interfere with the execution proceedings on 01.02.2023 and 01.03.2023, and the Special Leave Petition preferred against the said order was also dismissed.

20. The consistent failure of the petitioner to obtain relief at various judicial fora further reinforces the view that the proceedings before the learned Trial Court were conducted in accordance with law and that ample opportunities were provided. The petitioner's conduct in the present matter appears to be a calculated attempt to delay the finality of proceedings rather than a bona fide effort to seek justice.

21. This Court is of the considered opinion that there exists no



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justifiable ground to remand the case to the Trial Court. The record clearly reflects that ample and repeated opportunities were afforded to the petitioner to advance final arguments. Instead of availing these opportunities in a timely manner, the petitioner chose to misuse the leniency extended by the learned Trial Court, which not only accommodated multiple adjournments at the behest of the learned counsel for the petitioner but also went to the extent of re-hearing final arguments, despite the matter having already been reserved for judgment.

22. It is apparent that the petitioner has sought to abuse the procedural framework to delay the proceedings, thereby frustrating the object of expeditious disposal under Section 138 of the NI Act. The matter assumes greater seriousness as the complainant in the present case is a senior citizen, and the delay has effectively denied him timely justice.

23. Before this Court, the arguments have been confined solely to the rejection of the application seeking condonation of delay and the plea for remand. Significantly, no substantive challenge has been raised to the judgment of conviction or the order on sentence.

24. This Court notes that whenever a transfer list of judicial officer is issued, it is circulated to all the judicial officers who are affected by this transfer as well as others. The notes appended to the transfer list also mention the following:

> " **Note (s):-**



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> 1. The judicial officers shall be under the control of the Principal District & Sessions Judge of the district, to which they have been allocated.
>
> 2. The judicial officers under transfer shall notify the cases in which they had reserved judgments/orders before relinquishing the charge of the court in terms of the posting/transfer order. The judicial officers shall pronounce judgments/orders in all such matters on the date fixed or maximum within a period of 2-3 weeks thereof, notwithstanding the posting/transfer. Date of pronouncement shall be notified in the cause list of the court to which the matter pertains as also of the court to which the judicial officer has been transferred and on the website…"

25. Thus, the Note (2) appended to the transfer list clearly stipulates that judicial officers under transfer are required to notify the cases in which judgments or orders had been reserved prior to relinquishing charge in accordance with the transfer/posting order. It further mandates that such judicial officers shall pronounce judgments/orders in all such matters on the date fixed or, at the latest, within 2–3 weeks, irrespective of their new posting. The date of pronouncement must be reflected in the cause list of both the court where the matter is pending and the court to which the judicial officer has been transferred, as well as on the official website. This directive is binding not only upon the transferring officer but also on the successor court, which is expected to adhere to and facilitate compliance with the same, as the note forms part of the official transfer communication received by them.

26. There is, therefore, no confusion that the Presiding Officer who has reserved an order or judgment in a case has to pronounce the order or the judgment himself even after he is transferred. The



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successor Court must not be listed for re-hearing as per the mandate of the note appended to each transfer list.

27. Therefore, in this case, both the judicial officers committed an error, the Presiding Officer who had reserved the judgment was dutybound to pronounce the judgment as per mandate of the note appended to the transfer list and the successor court was dutybound who have not listed it for re-hearing and should have sent it to the District Judge concerned for being placed before the Presiding Officer who had reserved the judgment. Needless to say, the transferred and the Successor Presiding Officer both had been transferred by virtue of the same transfer list and, therefore, had knowledge as to how they were to deal with a case wherein the judgment stood reserved.

28. **Henceforth, it is hereby directed that** in all cases where a Presiding Officer is transferred and has reserved judgments/orders prior to relinquishing charge, the following protocol shall be mandatorily followed:

**A.** The Presiding Officer being transferred shall prepare a comprehensive list of all cases in which orders or judgments have been reserved by them but not yet pronounced.

**B.** This list shall be submitted to the concerned District Judge before the date of relinquishing charge.

**C.** The Presiding Officer shall remain dutybound to pronounce judgments/orders in all such matters on the date already fixed



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or, at the latest, within 2–3 weeks from the date of their transfer, as noted above, and in accordance with the notes appended to the transfer list.

**D.** The District Judge of the concerned district shall ensure compliance with the above directions and facilitate the pronouncement of judgments/orders by the transferred Presiding Officer in accordance with the mandate of the transfer list.

29. In these circumstances, the Learned Registrar General of this Court is directed to forward a copy of this judgment to all the District and Sessions Judges of Delhi, who shall ensure its circulation among all the Judicial Officers posted in their respective jurisdictions. A copy of the judgment shall also be forwarded to the Director (Academics), Delhi Judicial Academy, with a direction to take note of its contents and to ensure that the guidelines and observations contained herein are appropriately included in the refresher courses and training modules for Judicial Officers undergoing training at the Academy.

30. In view of the above, the present petition is accordingly dismissed. Pending application, if any, also stands disposed of.

31. The judgment be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**JULY 15, 2025/A**



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