$~82, 83 & 85

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

% ***Date of Decision: 28th July, 2026***

\+ CRL.M.C. 5279/2026 & CRL.M.A. 22142-22143/2026

SARVESHWAR SHRIVASTAVA .....Petitioner

Through: Mr. Tarun Gaur and Mr. Shubham Arora, Advocates.

versus

MODERN PAPER MART PVT. LTD. AND ORS .....Respondent

Through: Appearance not given.

83

\+ CRL.M.C. 5280/2026 & CRL.M.A. 22147-22148/2026

SARVESHWAR SHRIVASTAVA .....Petitioner

Through: Mr. Tarun Gaur and Mr. Shubham Arora, Advocates.

versus

MODERN PAPER MART PVT. LTD. AND ORS .....Respondent

Through: Appearance not given.

85

\+ CRL.M.C. 5282/2026 & CRL.M.A. 22154-22155/2026

SARVESHWAR SHRIVASTAVA .....Petitioner

Through: Mr. Tarun Gaur and Mr. Shubham Arora, Advocates.

versus

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MODERN PAPER MART PVT. LTD. AND ORS .....Respondent

Through: Appearance not given.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T *(oral)*

1. Petitioner herein is facing prosecution for commission of offence under Section 138 of *Negotiable Instruments Act, 1881*.

2. His main grievance is to the effect that he could not have been summoned in the complaints in question for the reason that he had resigned much before the issuance of the cheques in question.

3. It is submitted that the applicant had resigned on 11.10.2023 whereas the cheques in question are of subsequent dates i.e. 16.02.2025, 24.02.2025, 04.03.2025, 12.03.2025 and 22.03.2025.

4. Fact, however, remains that the abovesaid complaints are at initial stage. The fact whether the petitioner ceased to be the Director of the said company at the relevant time is a disputed question of fact, which cannot be gone into comprehensively by this Court in a petition of the present nature, particularly when there is no admission or acknowledgement about the abovesaid fact by his adversary i.e. complainant.

5. Reference be made to *RL Toshniwal v. Indo Rama Synthetics* (India) Ltd. 2003 (68) DRJ474, wherein also this court had observed that the fact whether any such Director has already resigned or not is a disputed question of fact which can only be appropriately adjudicated during the trial. The relevant observation reads as under:-

> *"4. This Court has consistently taken the view that once the accused persons have been summoned to face trial under Section 138 of the Act, the question as to whether such persons had resigned from the accused company and had ceased to be responsible for day to day business of the accused company can*

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be decided only after evidence is led by the parties at the appropriate stage. Reference in this connection may be had to the case of Sunaina R. Mathani v. National Capital Territory of Delhi and Ors., and Anurag Modi v. MSTC Ltd., Similar view has been taken by the Supreme Court in the case of Municipal Corporation of Delhi v. Purshotam Dass Jhunjunwala and Ors., 1983 CAR 7(SC) under Prevention of Food Adulteration Act and also in the case of Raj Lakshmi Mills v. Shakti Bhakoo, which was a case under Section 138 of the Act."

6. Reference be also made to *K.P.G Nair v. State* AIR 2008 (NOC) 1513 (DEL.).

7. Moreover, at the stage of admission/denial of documents, the petitioner can always place all these documents before the learned Trial Court so that appropriate order can be passed by the learned Trial Court after ascertaining response of the complainant with respect to such documents.

8. In view of the above, all the abovesaid three Revision Petitions are, hereby, dismissed.

9. It is, however, clarified that there is no adjudication on merits and about the abovesaid question of fact and it will be, entirely, up to the learned Trial Court to answer the same at appropriate stage, in accordance with law.

10. Pending applications also stand disposed of.

(MANOJ JAIN)
JUDGE

JULY 28, 2026/*nr/sa*

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