

IN THE COURT OF DR. SAURABH KULSHRESHTHA,
ADDITIONAL SESSIONS JUDGE-03: WEST DISTRICT,
TIS HAZARI COURT, DELHI.

CNR No. DLWT01-009273/2024

CR No. 489/2024

PS: Punjabi Bagh

Shahnawaz Khan v. Chet Ram Mahender Kumar & others

In the matter of:

Shahnawaz Khan

S/o Mohd. Saeed

R/o D1-24, Sector-I, Aliganj,

Lucknow, U.P. - 226024

..... Petitioner

Versus

1. Chet Ram Mahender Kumar
Through its Proprietor Mr. Mahender Kumar Aggarwal
Address : 3991/A, Naya Bazar,
Delhi – 110006.
Mobile No. : 9599043045
2. M/s Dastoor Foods Private Limited
Through its Directors
Address : 3rd Floor, Adarsh Apartment,
1/45, Vijay Khand, Gomti Nagar,
Lucknow, Uttar Pradesh – 226010.
Email : dastoorfoods@gmail.com

Also at :

B-153, First Floor

Zakir Bagh Jamia Nagar,

Near Surya Hotel, Delhi – 110025.

3. Mohd. Anas @ Syed Mohd. Anas
Address :B-153, First Floor
Zakir Bagh Jamia Nagar,
Near Surya Hotel, Delhi – 110025.
Email: anasdastoor@gmail.com

Also at :
C-30, Flat No. S-4, Friends Colony East,
South Delhi, Delhi – 110065.

Also at :
B-354, Second Floor, New Friends Colony,
New Delhi, Delhi – 110025.

4. Shahbaz Khan
D-1/24, Sector-1, Aliganj,
Lucknow, Uttar Pradesh – 226001. Respondents

**Order on the application under section 379 read with section 215 of the
BNSS moved on behalf of the respondent no. 1/ complainant**

1. An application under section 379 read with section 215 of the BNSS read with sections 227/229/246 of the BNS. moved on behalf of the respondent no. 1/ complainant is pending.

2. Arguments on the said application have already been heard.

3. The present revision petition has been preferred by the petitioner (the accused no. 4 before the Ld. Trial Court) against the summoning order dated 16.12.2023 passed by the Ld. Metropolitan Magistrate (NI Act-02), West District, Tis Hazari Courts, Delhi whereby the accused no. 1 company and the accused nos. 2, 3 and 4 (including the

present petitioner/ accused no. 4) were summoned for the offence under section 138 of the Negotiable Instruments Act.

4. The primary ground agitated in the present revision petition is that petitioner/ accused no. 4 had resigned as Additional Director of the accused no. 1 company on 01.05.2023 i.e. well before the issuance of the cheque dated 05.05.2023, which forms the substratum of the present criminal complaint. Copy of the resignation letter 01.05.2023, copy of the minutes of meeting of the Board of Directors and copy of the acknowledgment of the resignation letter dated 01.05.2023 have been placed on record by the petitioner. Form DIR 11 was filed by the petitioner/ accused no. 4 with the concerned authorities on 08.02.2024 and Form DIR 12 was also subsequently filed by the accused no. 1 company in respect of his purported resignation on 12.12.2025. Both the said Forms DIR 11 and DIR 12 have been placed on record by the petitioner.

5. By way of the present application, the respondent no. 1/ complainant has prayed that the requisite complaint under section 379 read with section 215 of the BNSS may be filed against the petitioner/ accused no. 4 for having committed offences under sections 227/229/246 of the BNS.

6. The primary ground agitated in the present application is that a perusal of copy of Form DIR 12 filed by the petitioner/ accused no. 4 reveals that the Digital Signature Certificate was appended thereupon on 15.12.2025 whereas the form has been purportedly filed on

a prior date i.e. 12.12.2025. It is further alleged that as per the said Form DIR 12 the other director Shahbaz Khan was authorized to file the same vide board resolution dated 29.04.2023, which is even prior to the purported resignation letter dated 01.05.2023 of the petitioner. It has therefore been contended that the petitioner/ accused no. 4 has committed perjury and has submitted false and forged documents i.e. the resignation letter, acceptance of the resignation letter and Form DIR 12 etc., and therefore he is liable for commission of offences under sections 227/229/246 of the BNS.

7. The Ld. Counsel for the petitioner/ accused no. 4 has opposed the said application and has submitted that all the documents filed by the petitioner are genuine documents and the petitioner had resigned from the accused no. 1 company on 01.05.2023. He has further stated that copy of the resignation letter 01.05.2023, copy of the minutes of meeting of the Board of Directors and copy of the acknowledgment of the resignation letter dated 01.05.2023 have been placed on record. He has further stated that Form DIR 11 was filed by the petitioner/ accused no. 4 on 08.02.2024 and copy of the same has also been placed on record. It is further submitted that the printout from the website of MCA has also been placed on record which shows the cessation date qua the petitioner/ accused no. 4 as Additional Director of accused no. 1 company as 01.05.2023. Ld. Counsel for the petitioner has further contended that the date of filing shown in Form DIR 12 (filed by the accused no. 1 company) as 12.12.2025 may be a typographical error. He has further stated that no offence has been committed by the petitioner/

accused no. 4. He has accordingly prayed for dismissal of the present application.

8. The parameters for referring a complaint in terms of section 340 Cr.P.C. (section 379 of the BNSS) have been laid down in various judicial pronouncements. In the judgment titled as "**Santokh Singh v. Izhar Hussain**" reported as AIR 1973 SUPREME COURT 2190 it was held:

“.....Every incorrect or false statement does not make it incumbent on the court to order prosecution. The court has to exercise judicial discretion in the light of all the relevant circumstances when it determines the question of expediency. The court orders prosecution in the larger interest of the administration of justice and not to gratify feelings of personal revenge or vindictiveness or to serve the ends of a private party. Too frequent prosecutions for such offences tend to defeat its very object. It is only in glaring cases of deliberate falsehood where conviction is highly likely, that the court should direct prosecution.”

9. In the judgment titled as "**Chajoo Ram v. Radhey Shyam**" reported as AIR 1971 SUPREME COURT 1367 it was held:

“.....The prosecution for perjury should be sanctioned Courts only those cases where the perjury appears to be deliberate and conscious and the conviction is reasonably probable or likely. No doubt giving of false evidence and filing false

affidavits is an evil which must be effectively curbed with a strong hand but to start prosecution for perjury too readily and too frequently without due care and caution and on inconclusive and doubtful material defeats its very purpose. Prosecution should be ordered when it is considered expedient in the interests of justice to punish the delinquent and not merely because there is some inaccuracy in the statement which may be innocent or immaterial. There must be prima facie case of deliberate falsehood on a matter of substance and the Court should be satisfied that there is reasonable foundation for the charge.....”

10. In the judgment titled as **"Iqbal Singh Marwah v. Meenakshi Marwah"** reported as 2005 CRI. L. J. 2161(SC) it was held:

“.....18. In view of the language used in Section 340, Cr.P.C. the Court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), as the Section is conditioned by the words "Court is of opinion that it is expedient in the interest of justice". This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the Court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(i)(b). This expediency will normally be judged by the Court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having

regard to the effect or impact, such commission of offence has upon administration of justice.....”

11. In so far as the resignation of the petitioner from the accused no. 1 company is concerned, he has filed copy of the resignation letter 01.05.2023, copy of the minutes of meeting of the Board of Directors and copy of the acknowledgment of the resignation letter dated 01.05.2023 and copy of Form DIR 11 (which was filed with the concerned authority on 08.02.2024). During the course of the present proceedings, the petitioner also placed on record, copy of Form DIR 12 filed by the accused no. 1 company in respect of his resignation. This Form DIR 12 was purportedly filed on 12.12.2025. The Ld. Counsel for the respondent no. 1 has pointed out that the Digital Signature on this Form DIR 12 is dated 15.12.2025. Ld. Counsel for the petitioner has contended that the date of filing reflected on the said Form DIR 12 i.e. 12.12.2025 may be a typographical error. At any rate, there is nothing on record to show that Form DIR 12 has not been filed at all with the concerned authority. The variation in the dates may well be a typographical error. Moreover, whether the Form DIR 12 was filed on 12.12.2025 or 15.12.2025, has no relevance in so far as the merits of the present case is concerned. Even if Form DIR 12 had been filed on any other date in December 2025, that would have hardly made any substantial difference. Thus this discrepancy does not affect the merits of the present revision petition. Furthermore, Form DIR 12 is to be filed by the Company and the petitioner/ accused no. 4 can only place on record a copy of Form DIR 12 which has been supplied to him by the accused no.

1 company. The issue regarding the date of resignation of the petitioner is yet to be finally decided. Accordingly, at this stage, there is no prima facie material to show that petitioner/ accused no. 4 has committed any forgery or has furnished any false/ forged documents or has committed perjury.

12. The application in hand, at this stage, does not prima facie disclose the commission of any offence by the petitioner warranting action against him in terms of section 379 BNSS. It is further not at all expedient in the interests of justice to take recourse to the provisions of section 379 BNSS qua the petitioner at this stage.

13. Therefore, the application under section 379 read with section 215 of the BNSS read with sections 227/229/246 of the BNS moved on behalf of the respondent no. 1/ complainant is devoid of merit. The said application is accordingly dismissed.

**(Pronounced in the open court
on the 31.01.2026).**

**(Dr. Saurabh Kulshreshtha)
Additional Sessions Judge-03 (West)
Tis Hazari Courts, Delhi**