

**IN THE COURT OF SH. SAMAR VISHAL,
ADDITIONAL SESSIONS JUDGE-02, SOUTH DISTRICT,
SAKET COURTS, NEW DELHI**

**CRIMINAL REVISION PETITION No.28/2026
CNR No. DLST01-000209-2026**

IN THE MATTER OF

**M/s Nanda Pharma
through its proprietor
Sh. Birender Sharma
S/o Sh, Nanda Sharma
Plot No.I-1173, I Block
Hari Nagar Extension
Opp. Jamia Cooperative Bank, Badarpur
New Delhi-110044
Also at: A-11, Gali no.1, Vinay Nagar
Amarnagar, Agwanpur
Faridabad, Haryana-121003**

..... Revisionist

Versus

**M/s Rama Sales
Through its Special Power of Authority holder
Sh Mohit Bansal
office at 705/A, Ward no.6
Mehrauli, New Delhi-110030**

..... Respondent

DATE OF INSTITUTION	: 15.01.2026
DATE OF ARGUMENTS	: 04.04.2026
DATE OF PRONOUNCEMENT	: 04.04.2026

ORDER

1. The present revision petition has been preferred by the revisionist, M/s Nanda Pharma (hereinafter referred to as “the revisionist”) through its proprietor namely Birender Sharma, assailing the order dated 11.11.2025 passed by the Court of the learned Judicial Magistrate First Class (NI Act), Digital Court-

01, South District, Saket Courts (hereinafter referred to as “the Trial Court”). By way of the impugned order, the learned Magistrate has observed that the time of 10 days given to the accused by the revisional court to file application under section 145(2) Negotiable Instruments Act (NI Act) has passed without the accused moving such application and paying the cost imposed upon him.

2. At the outset, it is necessary to note that the scope of interference in revisional jurisdiction is limited. A revisional court does not function as a court of appeal and cannot re-appreciate evidence or substitute its own view merely because another view is possible. Interference is warranted only when the impugned order suffers from patent illegality, material irregularity, perversity, or results in miscarriage of justice. Keeping this well-settled principle in mind, the impugned order has been examined. Code. In the case of ***Amit Kapoor vs Ramesh Chander and Another (2012) 9 SCC 460***, it was held by Hon’ble Supreme Court that section 397 of the Criminal Procedure Code 1973, vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well- founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. The revisional jurisdiction can be invoked where the decisions under challenge are grossly

erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

3. The present revision petition arises out of a complaint case instituted under Section 138 of the Negotiable Instruments Act, 1881, pending before the learned Trial Court. During the course of arguments, it has been brought to the notice of this Court that as many as 24 similar complaint cases are pending between the parties, out of which 14 revision petitions of a similar nature have been preferred before this Court.

4. The revisionist herein is the accused before the learned Trial Court, whereas the respondent, Rama Sales, is the complainant. Before adverting to the merits of the controversy, it is considered apposite to briefly delineate the procedural history of the case.

5. The complaint case came to be instituted on 01.11.2022. Vide order dated 16.12.2022, the learned Trial Court took cognizance of the offence under Section 138 of the Negotiable Instruments Act and summoned the accused, namely Birender Sharma, who is the proprietor of M/s Nanda Pharma. The order sheet dated 05.10.2023 reflects that the disputes between the parties were referred to mediation and were reported to have been settled. However, since the accused failed to honour the

terms of the settlement, the matter was, upon the request of learned counsel for the complainant, taken up on merits.

6. On the same date, the learned Trial Court proceeded to frame notice under Section 251 Cr.P.C. and also carried out admission and denial of documents under Section 294 Cr.P.C. The accused was granted an opportunity to file an application under Section 145(2) of the Negotiable Instruments Act for cross-examination of the complainant on the next date of hearing, i.e., 16.11.2023.

7. However, on the subsequent dates, namely 16.11.2023 and 22.12.2023, no such application was filed on behalf of the accused. Thereafter, on 23.02.2024, the accused remained absent, which led to the issuance of non-bailable warrants against him. The said warrants were subsequently cancelled on 25.06.2024, when the accused appeared before the Court. On that date as well, the learned Trial Court granted yet another opportunity to the accused to file an application under Section 145(2) of the Negotiable Instruments Act and fixed the matter for 14.08.2024.

8. Despite the indulgence shown, the accused again failed to avail the opportunity, and no application under Section 145(2) of the Negotiable Instruments Act was filed. Consequently, the learned Trial Court, finding no justification for further adjournment, closed the opportunity of the accused to file such application and, as a necessary corollary, also closed the right of the accused to cross-examine the complainant.

9. The order sheet dated 26.10.2024 reflects that the accused moved an application seeking recall of the order dated 14.08.2024, whereby his opportunity to file an application under Section 145(2) of the Negotiable Instruments Act had been closed.

10. The learned Trial Court, vide a detailed order, dismissed the said application, taking note of the conduct of the accused as borne out from the record and, further, on the ground that being a criminal court, it does not possess the power to recall or review its own order once passed, in the absence of any specific statutory provision enabling such recall.

11. Aggrieved by the denial of a further opportunity to file an application under Section 145(2) of the Negotiable Instruments Act, the accused preferred a revision petition before the learned Sessions Court. Vide order dated 19.09.2025, the learned Sessions Court, in the interest of justice, granted one final opportunity to the accused to file the said application within a period of 10 days from the date of the order, subject to payment of costs quantified at Rs. 1,500/-.

12. Admittedly, the accused failed to file the application as directed by the learned Sessions Court within the stipulated period of 10 days and also did not comply with the condition of payment of costs. In such circumstances, the learned Trial Court, vide the impugned order dated 11.11.2025, merely recorded the non-compliance of the directions issued by the learned Revisional Court and proceeded further with the trial.

13. Upon a careful perusal of the impugned order, I do not find any illegality, infirmity, or material irregularity therein, inasmuch as the learned Trial Court has not adjudicated upon any substantive rights of the parties but has only taken note of the failure of the accused to comply with the directions of the superior court.

14. The explanation sought to be furnished in the present revision petition for non-compliance—namely that the learned counsel for the accused was engaged in contesting the Municipal Corporation elections during the relevant period—is wholly unconvincing and does not constitute a sufficient or justifiable ground for condonation of such default. Procedural timelines fixed by a superior court, cannot be treated lightly or rendered nugatory on such tenuous grounds.

15. It is further pertinent to note that the learned Trial Court did not possess the authority to extend the time granted by the learned Sessions Court, as the same would amount to sitting in appeal over the order of a superior court, which is impermissible in law. Therefore, the course adopted by the learned Trial Court in proceeding with the matter cannot be faulted.

16. On the contrary, the record reveals a consistent pattern of negligence on the part of the accused, who has repeatedly failed to avail the opportunities granted to him at various stages of the proceedings. Such conduct not only reflects a lack of bona fides but also indicates an attempt to delay the trial and obstruct the

course of justice. The process of the court cannot be permitted to be misused in this manner.

17. In view of the foregoing discussion, I do not find any procedural impropriety or jurisdictional error in the impugned order warranting the exercise of revisional jurisdiction. The revisionist also has failed to demonstrate any patent illegality, perversity, or jurisdictional error in the impugned order so as to warrant exercise of the revisional jurisdiction of this Court. The present revision petition, being devoid of merit, is accordingly dismissed.

**PRONOUNCED IN OPEN COURT ON
THIS 4th April 2026**

**(Samar Vishal)
ASJ-02, South District
Saket Courts, New Delhi
04.04.2026**