

*Cr. Rev. 134/25, 135/25
166/25, 167/25, 181/25 & 182/25*

IN THE COURT OF SH. SYED ZISHAN ALI WARSI :
ADDITIONAL SESSIONS JUDGE-04,
PATIALA HOUSE COURTS, NEW DELHI

Cr Rev 134/2025
M/S VONAMOR ENTERTAINMENT PRIVATE LIMITED
Vs.
M/S GAMA INVESTMENT PVT LTD.

Cr Rev 135/2025
M/S VONAMOR ENTERTAINMENT PRIVATE LIMITED
Vs.
M/S AASHRAY PORTFOLIO PRIVATE LIMITED

Cr Rev 166/2025
M/S OSJ INVESTMENT PVT. LTD. AND ORS. Vs. M/S GAMA
INVESTMENTS PVT. LTD.

Cr Rev 167/2025
M/S OSJ INVESTMENT PVT. LTD. AND ORS. Vs. M/S AASHRAY
PORTFOLIO PVT. LTD.

Cr Rev 181/2025
VENKATESH SANKAR Vs. GAMA INVESTMENT PVT. LTD

Cr Rev 182/2025
VENKATESH SANKAR Vs. AASHRAY PORTFOLIO PVT LTD.

11.02.2026

Present: Ms. R Priya, Ld. Counsel for petitioner.
Sh. Aman Kr. Thakur, Ld. Counsel for respondent.

ORDER

1. Vide this order, this court shall decide all the six revision petitions (i.e. ***Cr. Rev. 134/25, 135/25 166/25, 167/25, 181/25 & 182/25***) u/s 438 BNSS / 397 Cr.P.C. against the order dated 17.08.2024 passed by Ms. Nishi Jindal, Ld. JMFC (NI Act)-05, PHC, New Delhi passed in Ct. Case Nos. 8799/2020, 8800/2020, 8801/2020, 8798/2020, 8799/2020 & 8800/2020, respectively, has closed the right of the petitioner to cross examine the complainant witness (respondent herein).

BRIEF FACTS IN NUTSHELL ARE LIKE THAT:

2. Mr. Brahm Prakash Bhardwaj, the AR of the Respondent Company filed a complaint u/s 138 of NI Act, 1881 against the Revisionist/ Petitioner for dishonor of cheque, issued as alleged by the Revisionist/Petitioner, in favour of the Respondent/complainant in the aforesaid complaint case. On 01.10.2020, the Respondent/Complainant filed four complaint cases u/s 138/142 NI Act bearing nos. **(1) CC NI ACT 8800/2020** titled as **M/S AASHRAY PORTFOLIO PVT LTD Vs. M/S VONAMOR ENTERTAINMENT PVT. LTD.** of cheque bounce

of Rs.1 Crore, **(2)** CC NI ACT 8798/2020 titled as M/S AASHRAY PORTFOLIO PVT. LTD. Vs. M/S OSJ INVESTMENT PVT. LTD. of cheque bounced of Rs.45,36,000/-, **(3)** CC NI ACT 8799/2020 titled as M/S GAMA INVESTMENT PVT. LTD. Vs. VONAMOR ENTERTAINMENT PVT. LTD. of cheque bounce of Rs.50,00,000/- and **(4)** CC NI ACT 8801/2020 titled as M/S GAMA INVESTMENT PVT. LTD. Vs. M/S OSJ INVESTMENT PVT. LTD. before the Ld. Trial Court against the Revisionist/Petitioner. And, after examination-in-chief of the complainant, despite several opportunities, the accused/petitioner has failed to cross-examine the complainant/respondent and the right of cross-examination of complainant by the accused/petitioner has been closed vide order dated 17.08.2024 by the Ld. Trial Court against which the present petition is filed. It is also clarified by the Ld. Counsel for the petitioner that against four complaints, 06 revision petitions are filed as Ld. Counsel has filed two revision petition against order Dated 17.08.2024 passed in Ct. Case Nos. 8799/2020, one is **Cr. Rev 134/2025** titled M/S Vonamor Entertainment Private Limited Vs. M/S Gama Investment Pvt Ltd., which is for the company/Revisionist Vonamor and accused/Revisionist Mohd.

Cherukara and **Cr. Rev 181/2025** titled Venkatesh Sankar Vs. Gama Investment Pvt. Ltd., which is for the accused/revisionist Venkatesh Sankar. Similarly, against order Dated 17.08.2024 passed in Ct. Cases 8800/2020, Ld. Counsel has filed **Cr. Rev. 135/2025** titled M/S Vonamor Entertainment Private Limited Vs. M/S Aashray Portfolio Private Limited, which is for Company as Revisionist and **Cr. Rev 182/2025** titled Venkatesh Sankar Vs. Aashray Portfolio Pvt Ltd., which is for accused Venkatesh Sankar as revisionist.

ARGUMENTS ON BEHALF OF LD. COUNSEL FOR PETITIONER / REVISIONIST:

3. It is submitted by Ld. Counsel for the petitioner that on 17.08.2024, proxy counsel for petitioner has appeared before Ld. Trial Court and sought time / prayed to cross-examine the complainant / respondent as the main counsel was not available due to his ill health because of the frequent change in the bad weather condition in Chennai, Tamil Nadu but vide order dated 17.08.2024, Ld. Trial Court has closed the opportunity to cross-examine the complainant. It is further submitted that the Ld. JMFC has failed to adhere to the basis principles of natural

justice and judicial decision by closing the right of cross examining the complainant witness. It is submitted that the complaints filed by the complainant are absolutely false, fabricated, manipulated, concocted, frivolous and vexatious one because the agreement mentioned in all the complaint is a vexatious and fraudulent one created by the complainant which was never been signed by the Petitioner. It is submitted that the petitioner has frivolously been trapped in all complaint cases. The petitioner had been doing business with the complainant/respondent with mutual fundings but when the business went into loss the complainant/respondent filed a frivolous complaint against the petitioner. The documents were forged and fabricated on which the respondent has filed the complaint and closing of the right of cross-examination of the petitioner will lead to failure of justice as a very valuable right of the petitioner is curtailed. It is prayed that the revision petitions are allowed and one opportunity be given to the accused to cross-examine the complainant.

4. It is also submitted that due to extreme weather change and rainfall, the petitioner got ill and not recovered which caused delay in filing of the present petitions. Copy of

consultation and medical bills are annexed with the present petition.

ARGUMENTS ON BEHALF OF LD. COUNSEL FOR RESPONDENT.

5. At the outset, Ld. Counsel for the respondent submits that the present petition is not maintainable qua order 17.08.2024 and the same is liable to be dismissed at the threshold. It is well settled law that Criminal Revision is not maintainable in respect of interlocutory orders. The order dated 17.08.2024 passed by Ld. Trial court, closing right of the Petitioner to cross-examine is not a final order and the same is absolutely interlocutory in nature. Further, as per the law interlocutory orders are not amenable to the revisional jurisdiction under section 438 of BNSS and earlier Section 397 of CrPC. The said position of law is also upheld by Hon'ble Delhi High Court in judgement rendered in *Vinod Aggarwal vs. State (NCT of Delhi) 2017 SCC Del 12364*. Therefore, present petition is liable to be dismissed. It is also submitted that the order of the Ld. Trial Court is passed after providing ample opportunities to the petitioner and the sole intention of the petitioner is to cause

delay in the trial.

Heard. Record perused.

6. On perusal of the record accompanied with the petition as well as with the reply, it is apparent that, the Ld. Trial Court has given sufficient opportunity to the petitioner to cross-examine the AR of the complainant. As can be seen from order-sheet dated 17.07.2023, even after waiting up to 12:05 PM i.e. second round for accused, the Ld. Trial Court has given last and final opportunity for cross-examination of AR of the complainant. While the previous cost were remained unpaid. Then, on 12.07.2024, the Ld. Trial Court has made reference of the previous order-sheets, then again, one last and final opportunity was granted to the accused to conduct the cross-examination of the AR of the complainant and the Ld. Trial Court has also made it clear that if the needful is not done on NDOH, then the right for cross-examination of AR of the complainant shall stand closed. Then, on 17.08.2024, after perusal of previous order-sheets and conduct of the accused/petitioner the opportunity for cross-examination was closed. Thus, due to the conduct of the accused / petitioner, Ld. Trial Court was

compelled to pass the order of closing the right of cross-examination as the petitioner has time and again took the adjournments without any cogent reason. Thus, in the opinion of this court, there is no infirmity or illegality in the order of the Ld. Trial Court dated 17.08.2024.

7. With regard to delay in filing the present petition, the reasons given in the application for condonation of delay that due to unavoidable circumstances i.e. extreme rainfall, shut down of electricity and illness of the petitioner is not substantiated by the petitioner's own documents as in the photocopy of medical certificate Dates are not mentioned in detail and also the nature of disease is not mentioned to explain that the petitioner due to disease was not able to file the present petition within the period of limitation or soon thereafter. As in one consultation bill, the date is given 15.04.2024 while in other 20.01.2025 and there is no bill or any document for the period of August, September, October or up to the mid of November to show that he was ill during the period of limitation for filing the present petition. And, the petitioner was in the knowledge of the order dated 17.08.2024 as he was appearing before the Ld. Trial Court through VC and the statement of accused were recorded on

06.12.2024 before the Ld. Trial Court. Thus, the petitioner has failed to show any cogent reasons why he was not able to file the present revision within the period of limitation.

8. On the question of maintainability of the present revision petition with regard to the closing of the right of cross-examination, it is relevant to consider the settled position of law as held in the following judgments:

9. The Hon'ble Supreme Court in ***Sethuraman Vs. Rajamanickam (2009) 5 Supreme Court Cases 153*** decided on 18.03.2009 held as follows:

".....5. Secondly, what was not realised was that the orders passed by the trial court refusing to call the documents and rejecting the application under Section 311 CrPC, were interlocutory orders and as such, the revision against those orders was clearly barred under Section 397(2) CrPC. The trial court, in its common order, had clearly mentioned that the cheque was admittedly signed by the respondent-accused and the only defence that was raised, was that his signed cheques were lost and that the appellant complainant had falsely used one such cheque. The trial court also recorded a finding that the documents were not necessary. This order did not, in any

manner, decide anything finally. Therefore, both the orders i.e. one on the application under Section 91 CrPC for production of documents and other on the application under Section 311 CrPC for recalling the witness, were the orders of interlocutory nature, in which case, under Section 397(2), revision was clearly not maintainable. Under such circumstances, the learned Judge could not have interfered in his revisional jurisdiction. The impugned judgment is clearly incorrect in law and would have to be set aside. It is accordingly set aside. The appeals are allowed.”

10. The Hon’ble Supreme Court in the case of State of U.P. Vs. Shambhu Nath Singh reported in (2001) 4 SCC 667 has held as under :

“10. Section 309 of the Code of Criminal Procedure (for short “the Code”) is the only provision which confers power on the trial court for granting adjournments in criminal proceedings. The conditions laid down by the legislature for granting such adjournments have been clearly incorporated in the section. It reads thus:

“309. Power to postpone or adjourn proceedings.—(1) In every inquiry or trial, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the court finds

the adjournment of the same beyond the following day to be necessary for reasons to be recorded. (2) If the court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody: Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time: Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing: Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him.”

11. The first sub-section mandates on the trial courts that the proceedings shall be held expeditiously but the words “as expeditiously as possible” have provided some play at the joints and it is through such play that delay often creeps in the trials. Even so, the next limb of the subsection sounded for a more vigorous stance to be adopted by the court at a further advanced stage of the trial. That stage is when examination of the witnesses begins. The legislature which diluted the vigour of the mandate contained in the initial limb of the sub-section by using the words “as expeditiously as possible” has chosen to make the requirement for the next stage (when

examination of the witnesses has started) to be quite stern. Once the case reaches that stage the statutory command is that such examination “shall be continued from day to day until all the witnesses in attendance have been examined”. The solitary exception to the said stringent rule is, if the court finds that adjournment “beyond the following day to be necessary” the same can be granted for which a condition is imposed on the court that reasons for the same should be recorded. Even this dilution has been taken away when witnesses are in attendance before the court. In such situation the court is not given any power to adjourn the case except in the extreme contingency for which the second proviso to sub-section (2) has imposed another condition,

“provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing”. (emphasis supplied)

12. Thus, the legal position is that once examination of witnesses started, the court has to continue the trial from day to day until all witnesses in attendance have been examined (except those whom the party has given up). The court has to record reasons for deviating from the said course. Even that is forbidden when witnesses are present in court, as the requirement then is that the court has to examine them. Only if there are “special reasons”, which reasons should find a place in the order for adjournment, that alone can confer jurisdiction on the court to adjourn the case without examination of witnesses who are present in court.

13. Now, we are distressed to note that it is almost a common practice and regular occurrence that trial courts flout the said command with impunity. Even when witnesses are present, cases are adjourned on far less serious reasons or even on flippant grounds. Adjournments are granted even in such situations on the mere asking for it. Quite often such adjournments are granted to suit the convenience of the advocate concerned. We make it clear that the legislature has frowned at granting adjournments on that ground. At any rate inconvenience of an advocate is not a “special reason” for bypassing the mandate of Section 309 of the Code.

14. If any court finds that the day-to-day examination of witnesses mandated by the legislature cannot be complied with due to the non-cooperation of the accused or his counsel the court can adopt any of the measures indicated in the sub-section i.e. remanding the accused to custody or imposing cost on the party who wants such adjournments (the cost must be commensurate with the loss suffered by the witnesses, including the expenses to attend the court). Another option is, when the accused is absent and the witness is present to be examined, the court can cancel his bail, if he is on bail (unless an application is made on his behalf seeking permission for his counsel to proceed to examine the witnesses present even in his absence provided the accused gives an undertaking in writing that he would not dispute his identity as the particular accused in the case).

15. The time-frame suggested by a three Judge Bench of this Court in Raj

Deo Sharma v. State of Bihar (1998(7) SCC 507) is partly in consideration of the legislative mandate contained in Section 309(1) of the Code. This is what the Bench said on that score:

“16. The Code of Criminal Procedure is comprehensive enough to enable the Magistrate to close the prosecution if the prosecution is unable to produce its witnesses in spite of repeated opportunities. Section 309(1) CrPC supports the above view as it enjoins expeditious holding of the proceedings and continuous examination of witnesses from day to day. The section also provides for recording reasons for adjourning the case beyond the following day.”

16. In Raj Deo Sharma (II) v. State of Bihar this Court pointed out that the trial court cannot be permitted to flout the mandate of Parliament unless the court has very cogent and strong reasons and no court has permission to adjourn examination of witnesses who are in attendance beyond the next working day. A request has been made by this Court to all the High Courts to remind all the trial Judges of the need to comply with Section 309 of the Code. The request is in the following terms: (SCC p. 614, para 14)

“14. We request every High Court to remind the trial Judges through a circular of the need to comply with Section 309 of the Code in letter and spirit. We also request the High Court concerned to take note of the conduct of any particular trial Judge who violates the above legislative mandate and to adopt such administrative action against the delinquent judicial officer as the law permits.”

17. We believe, hopefully, that the High Courts would have issued the circular desired by the Apex Court as per the said judgment. If the insistence made by Parliament through Section 309 of the Code can be adhered to by the trial courts there is every chance of the parties cooperating with the courts for achieving the desired objects and it would relieve the agony which witnesses summoned are now suffering on account of their nonexamination for days.”

11. Now reverting back to the case at hand, the Petitioner has been deliberately and intentionally delaying the pending complaint case before the Trial court. The same is evident from the fact that the cross-examination of the Complainant/Respondent was pending since 24.04.2023. Thereafter, on each subsequent date of hearing, unnecessary and frivolous adjournments were sought by the Accused/Petitioner solely to delay and prolong the case. Still, vide order dated 12.07.2024, the Ld. Trial court granted a last opportunity to the Petitioner to conduct the cross-examination of the AR of the Complainant/Respondent, clearly stating that failure to do so would result in the closure of the said opportunity. However, on the next date of hearing again the Petitioner/accused sought adjournment without any sufficient cause or reason. It was in

these compelling circumstances, that, the Ld. Trial court closed the right of the Accused/Petitioner to cross-examine the Complainant's/Respondent's AR. Lastly, on 06.12.2024, the Statement of Accused u/s 313 Cr. PC was duly recorded before the Ld. Trial Court. Thus it transpires that, the Ld. JMFC gave ample opportunities to the counsel for petitioner for cross-examination of complainant CW1, but, the petitioner and his counsel failed to cross examine the complainant. Thus, the order dated 17.08.2024 of the Ld. Trial Court i.e. closing the opportunity of revisionist / accused to cross-examine the complainant / respondent had not terminated the proceedings and closing of the opportunity of cross-examination is merely a procedural order and therefore in a interlocutory order . Accordingly, the present petitions being against interlocutory order are not maintainable and is liable to be dismissed in view of the bar created by Section 397(2) Cr.P.C. / 439(2) BNSS.

12. Accordingly, the present petitions are liable to be dismissed being not maintainable. **With these observations present petitions are disposed off accordingly.**

*Cr. Rev. 134/25, 135/25
166/25, 167/25, 181/25 & 182/25*

**Copy of the order be sent to concerned Ld.
JMFC.**

Revision files be consigned to record room.

**(SYED ZISHAN ALI WARSI)
Addl. Sessions Judge-04
Patiala House Courts
New Delhi/11.02.2026**