

Cr. Rev. 470/2025

Sumati Prasad Bafna Vs. Expo FAB India Pvt. Ltd. & Ors.

08.05.2026

Present: Sh. Sidhant Kapoor, Ld. Counsel for revisionist (through VC).
Sh. Manu Bajaj, Ld. Counsel for respondent No. 1
alongwith AR.

Put up for orders during course of the day.

(Anuj Agrawal)
ASJ-03 (South East)

08.05.2026
(At 11:15 AM)

Present: None.

ORDER

1. The present criminal revision petition has been preferred under Sections 438/440 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Sections 397/399 CrPC), assailing the summoning order dated 07.01.2021 passed by the learned Metropolitan Magistrate (NI Act-02), South-East District, Saket Courts, New Delhi, in Complaint Case No. 3474/2020 instituted under Section 138 of the Negotiable Instruments Act, 1881.

2. By way of the present petition, the revisionist has sought setting aside of the aforesaid summoning order primarily on the grounds urged in the revision petition and during oral submissions advanced on behalf of the revisionist.

3. At the very outset, before adverting to the merits of the controversy sought to be raised by the revisionist, it becomes necessary for this Court to examine the issue of maintainability and limitation, the same going to the very root of the matter.

3.1 Heard. Record perused.

4. The impugned summoning order was admittedly passed on 07.01.2021, whereas the present revision petition has been instituted in the year 2025. The delay is not marginal or technical in nature but is substantial, glaring and apparent on the face of the record itself. The revision petition has thus been preferred after an inordinate lapse of time.

5. Record further reveals that the revisionist had earlier also approached the revisional court by filing Criminal Revision No. 632/2024, wherein inter alia the very same summoning order dated 07.01.2021 was also challenged. The learned Predecessor of this Court, while dealing with the said revision petition, inter alia observed as under:-

“Admittedly, the revisionist herein has not preferred any application for condonation of delay in respect of the order dated 07.01.2021. In such circumstances, the present revision petition is liable to be dismissed summarily qua the prayer of revisionist for setting aside the order dated 07.01.2021. Ordered accordingly.”

6. Thus, the challenge mounted by the revisionist against the impugned order already stood considered and rejected by the learned Predecessor of this Court. The said order admittedly was never assailed before any superior forum and consequently attained finality.

7. In the aforesaid background, the present revision petition, again assailing the very same order while now accompanied with an application seeking condonation of delay, is prima facie barred under Section 438(3) BNSS, which prohibits entertainment of a second revision petition by the same party.

8. Learned counsel for the revisionist vehemently argued that since the earlier revision petition was dismissed summarily and not on merits, the statutory bar contained under Section 438(3) BNSS would not operate in the present case. In support of the said contention, reliance was placed upon judgment of the Hon’ble High Court of **Andhra Pradesh reported as 2011 SCC Online AP 951.**

9. This Court has carefully considered the aforesaid submission

and also perused the judgment relied upon by learned counsel for the revisionist. However, the reliance placed thereupon is wholly misplaced and misconceived.

10. A bare reading of the said judgment would reveal that the Hon'ble Court therein had held the second revision petition to be maintainable only because the earlier revision petition had been dismissed for default owing to absence of the revisionist and not after adjudication of the challenge raised therein. The factual matrix of the present case stands on an entirely different footing.

11. In the present matter, the earlier revision petition was not dismissed for default simpliciter. Rather, the learned Predecessor of this Court specifically considered the challenge to the summoning order and found the petition liable to be dismissed on account of gross delay coupled with absence of any application seeking condonation thereof. The dismissal thus cannot be equated with a mere dismissal for non-prosecution or technical default.

12. It is further noteworthy that despite passing of the order in the earlier revision petition, the revisionist chose not to challenge the same before any higher judicial forum. The inevitable consequence thereof is that the earlier order attained conclusiveness and finality.

13. Therefore, permitting the revisionist to once again re-agitate the very same challenge through another revision petition would amount to permitting circumvention of the statutory prohibition contained under Section 438(3) BNSS and would render the legislative intent nugatory.

14. Repetitive invocation of revisional jurisdiction against the same order cannot be permitted merely by adopting different procedural devices or by subsequently filing an application for condonation of delay which was consciously omitted earlier. The law does not countenance repeated attempts to reopen issues that have already attained finality.

15. Even otherwise, this Court has independently examined the grounds urged in the application alongwith the arguments made for condonation of delay. The principal plea raised by the revisionist is that he became aware of the proceedings before the learned Trial Court only on 28.10.2022, when NBWs were allegedly issued against him, and prior thereto he had no knowledge either of the complaint proceedings or of the impugned summoning order.

16. Assuming the aforesaid averments to be correct for the sake of arguments, even then the explanation furnished by the revisionist does

not satisfactorily account for the enormous delay occasioned thereafter. Admittedly, the present revision petition as well as the earlier revision petition were instituted long after the alleged date of knowledge.

17. Learned counsel for the revisionist attempted to justify part of the delay by contending that procurement of copies of the complaint and allied documents consumed considerable time. However, the said submission does not merit acceptance.

18. Even in the absence of copies, nothing prevented the revisionist or his counsel from inspecting the trial court record, examining the complaint case file and thereafter availing appropriate legal remedies within the prescribed period of limitation from the alleged date of knowledge.

19. The conduct of the revisionist reflects lack of due diligence and absence of bona fides. The law of limitation is founded upon public policy and cannot be rendered otiose by vague, casual or insufficient explanations.

20. Hon'ble Delhi High Court in case titled as ***Bharat Kalra Vs Raj Kumar Chabra***, CM (M) No.429/2021 dated 12.08.2021 has observed as under :

“13. While it is true that the power to condone delay is intended to advance substantive justice, nevertheless, procedure cannot be given a complete go by. The powers of the court to condone delay is to be used in appropriate cases. No litigant can assume that, as a matter of right, the delay in taking steps would be condoned, because procedure is the handmaiden of substantive justice. Rights accruing to the opposite party on account of the delayed action need to be also kept in mind. The reasons given for explaining the delay are of paramount importance and not the length of the delay. The shortness of delay alone ought not to suffice for exercise of discretion to condone it. Cogent and clear explanations have led the courts to condone the delay, even of five years in filing the pleadings.”

21. Another submission advanced on behalf of the revisionist was that instead of immediately filing a revision petition, the revisionist had preferred a discharge application before the learned Trial Court in November, 2023, which remained pending till August, 2024 and therefore the revisionist would be entitled to benefit of Section 14 of the Limitation Act on account of pursuing a remedy before a wrong forum.

22. The aforesaid contention is equally devoid of merit.

23. It is well settled that in a summons triable complaint case governed by the Code of Criminal Procedure, there exists no provision for discharge of an accused after issuance of summons. Reliance in this regard may be placed upon the judgment of the Hon'ble Supreme

Court in **Subramaniam Sethuraman Vs. State of Maharashtra & Anr.**, which position has subsequently been reiterated in **Amit Sibal Vs. Arvind Kejriwal, Criminal Appeal No. 1101/2016**.

24. Thus, the remedy pursued by the revisionist before the learned Trial Court was ex facie not maintainable in law. Mere pursuit of a legally untenable remedy cannot automatically entitle a litigant to benefit under Section 14 of the Limitation Act.

25. It is trite that Section 14 of the Limitation Act applies only where the earlier proceedings were pursued with due diligence, in good faith and before a forum unable to entertain the matter due to defect of jurisdiction or other cause of like nature. The said provision cannot be invoked to protect a litigant who chooses to pursue a remedy contrary to settled legal position.

26. Ignorance of settled legal principles or adoption of an impermissible procedure cannot furnish a ground for indefinite extension of limitation. The maxim *ignorantia juris non excusat* squarely applies to the facts of the present case.

27. Having considered the matter from every possible perspective, this Court is of the considered opinion that the present revision petition is not merely hopelessly barred by limitation, but also constitutes a clear abuse of the process of law.

28. The revisionist, despite dismissal of the earlier revision petition challenging the same order, has once again invoked revisional jurisdiction in an attempt to reopen an issue which already stood concluded and had attained finality. Such repetitive litigation strikes at the very sanctity of judicial proceedings and cannot be encouraged.

29. The revisional jurisdiction vested in this Court is supervisory and discretionary in nature. The same cannot be permitted to be repeatedly invoked so as to endlessly prolong proceedings and unsettle matters already adjudicated.

30. Frivolous and repetitive litigation not only causes avoidable harassment to the opposite party, but also consumes valuable judicial time which ought to be devoted to genuine litigants awaiting adjudication of their disputes. Courts are therefore duty bound to discourage such misuse of judicial process.

31. Consequently, in view of the foregoing discussion, the present revision petition stands dismissed being hopelessly barred by limitation as well as being an abuse of the process of Court.

32. This Court is further of the opinion that the conduct of the revisionist warrants imposition of exemplary costs so as to deter

litigants from repeatedly invoking the jurisdiction of Courts in a manner contrary to settled principles of law and statutory prohibitions.

33. Accordingly, the revisionist is saddled with costs of Rs.30,000/- (Rupees Thirty Thousand Only), to be deposited with the Lawyers Welfare Fund, Saket Bar Association, within one week from today. Receipt of deposit shall be placed before the learned Trial Court within the aforesaid period.

34. In the event of failure on the part of the revisionist to deposit the aforesaid costs within the stipulated time, the learned Trial Court shall take appropriate steps for recovery thereof in accordance with law.

35. Copy of order be sent to Ld. Trial Court for information. The copy be also sent to Honorary Secretary, Saket Court Bar Association for information.

36. Revision file be consigned to Record Room after due compliance.

(Anuj Agrawal)
ASJ-03 (South East)
Saket Courts, Delhi/08.05.2026