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

+ **CRL.REV.P.(NI) 236/2025**

OYSTER CONSTRO CARE PVT LTD ANRPetitioner

Through: Mr. Vishwendra Verma, Ms. Shivali,
Ms. Ekta Tomar, Mr. Abhishek
Nagar, Mr. Abhdeya Verma,
Advocates

versus

RATHI STEEL DAKSHIN LTDRespondent

Through: None

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **08.10.2025**

CRL.M.A. 29815/2025

1. Allowed, subject to all just exceptions.
2. The Application stands disposed of.0

CRL.REV.P.(NI) 236/2025 & CRL.M.A. 29816/2025

3. Criminal Revision Petition under Section 397 Cr.P.C./428 BNSS has been filed on behalf of the Petitioners for setting aside the Judgment/Order dated 09.09.2025 passed by Ld. ASJ, whereby the Appeal preferred against the Conviction under Section 138 NI Act by the Petitioner has been dismissed.
4. CRL.M.A. 29816/2025 has been filed for stay of the Impugned Order dated 09.09.2025 *vide* which the Appeal has been dismissed.
5. It is submitted that the Impugned Judgment dated 09.09.2025 passed by the Ld. ASJ is patently suffering from defect in so much as the Complaint



has been filed by Shri Kamalsheel Maheshwari while the evidence has been led by Shri Bipin Behari Shrivastava AR of the Respondent, Shri Rathi Steel (Dakshin) Ltd. It is further submitted that in view of the patent illegality in filing of the Complaint itself, the Impugned Judgment dated 09.09.2025 is liable to be set aside and the Order of Sentence be stayed.

Submissions heard and record perused.

6. Briefly stated, Criminal Complaint Number 18569/2018 was filed before the Court of Ld. MM, New Delhi, on 06.04.2025, which eventually resulted in conviction of the Petitioner under Section 138 NI Act *vide* judgment dated 29.01.2024 and was sentenced on 04.05.2024 to TRC (till the raising of the Court) with the payment of fine of Rs.23,07,963/-.

7. The Petitioner preferred Criminal Appeal No. 141/2024 dated 01.05.2024 against the Impugned Order before the Ld. ASJ, who directed the deposit of fine amount to the extent of 20% under Section 148 NI Act, which the Petitioner was unable to do. Instead, he preferred CRL. M.C. No. 5502/2024 before the High Court to challenge the Order under Section 148 NI Act, which is still pending before this Court.

8. In the interim, the Appeal has been dismissed by the Ld. ASJ *vide* Order dated 09.09.2025 and the file has been sent back to the Trial Court for execution of the Order on Sentence dated 04.05.2024.

9. The present petition has been filed to challenge the Order dated 09.09.2025, whereby the Appeal preferred by the Petitioner has been dismissed and the Order on Sentence of Learned MM dated 04.05.2024 has been upheld by the learned ASJ.

10. It is submitted on behalf of the Petitioner that there are patent illegalities in the Impugned Judgment dated 09.09.2025 as it has not been



considered that the Complaint was filed by Sh. Kamalsheel Maheshwari, as the competent person on behalf of the Complainant Company, but the evidence has been led by Bipin Behari Shrivastava, Authorized Representative of the Respondent. There is no proper authority in favour of Sh. Kamalsheel Maheshwari to file the Complaint and therefore, the Complaint itself was not maintainable.

11. It is also submitted that there are three entities of Rathi Steel and there is no clear indication of who is in fact the Complainant. As per the Purchase Order dated 17.10.2011 had been given by Rathi Rajasthan Steels Mills Limited, while the Complaint has been filed by Rathi Steel (Dakshin) Limited showing that there was no relationship between the Complainant and the Petitioner. It is, therefore, submitted that the Impugned Order dated 09.09.2025 upholding of dismissing the Appeal, needs to be stayed.

12. While the Petitioner has sought a stay of the Order dated 09.09.2025 upholding the conviction under Section 138 NI Act and directing the Ld. MM to implement the Order and Sentence, it cannot be overlooked that a similar Order had been passed under Section 148 NI Act by this Court while the Appeal was pending before Learned ASJ whereby directions had been given by learned ASJ to deposit 20% of the loan amount, which has not been complied till date.

13. Now the Order of Conviction has been confirmed by learned ASJ

14. In the circumstances, no justification is given for blanket stay of the Impugned Order dated 09.09.2025. However, it is directed that on deposit of 20% of the fine amount, the Impugned Order on Sentence 04.05.2024 filed within 15 days, the Order of Sentence shall be suspended, failing which the Ld. MM shall proceed to execute the sentence.



15. Notice be issued to the Respondent on taking necessary steps by the Petitioner, to be served through ordinary post and electronic mode, returnable on 19.01.2026.

16. E-Trial Court Record be also summoned of the Court of Learned MM as well as Learned ASJ before the next date of hearing.

NEENA BANSAL KRISHNA, J

OCTOBER 8, 2025

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