



2025:DHC:5146



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

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*Reserved on: 01st May, 2025
Pronounced on: 30th June, 2025*

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CRL.M.C. 1096/2021 & CRL.M.A. 5594/2021

MANORANJANA SINH
D/O Mr. Kedar Nath Gupta
R/o D-47, Gulmohar Park,
New Delhi-110049.

.....Petitioner

Through: Mr. Ashutosh Ghade, Advocate.

Versus

1. STATE (NCT OF DELHI)
THROUGH SHO
Police Station: Mandir Marg,
New Delhi.

2. TARUN JAIN
S/o Shri I.C. Jain
R/o K-20, Green Park Extension,
New Delhi-110017.

.....Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for
the State with SI Amit Chaudhary,
Crime Branch.
Mr. A.K. Thakur and Ms. Anushruti
Tripathi, Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



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1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as Cr.P.C.*) has been filed on behalf of the Petitioner, Smt. Manoranjana Sinh seeking quashing of the Order dated 28.10.2020 whereby Ld. ACMM has accepted the Protest Petition submitted in FIR No.291/2008 under Section 406 Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*), Police Station Mandir Marg registered on the Complaint of Respondent No.2, Sh. Tarun Jain and took cognizance for the offence against her.

2. ***Briefly stated***, as per the case of the prosecution, Respondent No. 2, Sh. Tarun Jain, complainant delivered certain jewellery worth Rs.84,47,700/- to the Petitioner, Smt. Manoranjana Sinh in July-August, 2008 for which she failed to make any payment. The Respondent No.2 was assured that payment would be made in 2-3 days and that there was no need for him to worry about the payment. He visited the Petitioner on 23.08.2008 to seek the payment, but he was again assured by the Petitioner not to worry. The Complainant then contacted Sh. Matang Sinh, husband of the Petitioner, and was shocked to know that he was not informed about the purchase of jewellery by the Petitioner.

3. Respondent No. 2, then filed three Complaints in different Police Stations within three days. He annexed his bills along with his Complaint dated 23.08.2008 and 18.07.2008. According to his Complaint, one Sh. Rakesh Kumar Chaudhary, Personal Assistant of Sh. Matang Sinh was also present at the time of the transaction. However, no action was taken by the Police despite running from pillar to post. After much running around, FIR No.291/2008 dated 11.10.2008 under Section 406 IPC was registered on his Complaint dated 29.09.2008.



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4. The Police then conducted the investigations and recorded the Statement of Sh. Rakesh Kumar Chaudhary under Section 161 Cr.P.C who supported the version of the Complainant, Sh. Tarun Jain.

5. In the Closure Report dated 09.12.2014, it was noted in the Closure Report that there were three Complaints filed over a period of three days in two Police Stations with different versions. In one Complaint delivery was shown to have been made on 27.07.2008, while in the second Complaint the delivery date is mentioned as 18.07.2008. Furthermore, in the Complaint filed in the Police Station Kotla Mubarakpur, only necklace and bangles were stated to be delivered, but in the subsequent Complaint filed at Police Station Mandir Marg, an addition of one diamond necklace and three loose ruby stones were also claimed to have been delivered.

6. In the Complaint filed in Police Station Kotla Mubarakpur regarding delivery of one emerald necklace, two different dates are mentioned i.e. 17.08.2008 and 28.08.2008 for the same article, while in the Complaint filed after two days, the emerald necklace was stated to be delivered on 18.07.2008.

7. *It was observed that* the Statement of Sh. Rakesh Kumar Chaudhary was not believable since he was an interested witness. The Petitioner, Smt. Manoranjana Sinh was placed in Column No.12 and it was stated that there were material discrepancies in the three Complaints that were filed on behalf of the Complainant, Sh. Tarun Jain.

8. It was **thus, concluded** that no offence was disclosed from the Complaint. Consequently, a Closure Report was filed by the Police on 09.12.2014 under Section 169 read with Section 173 Cr.P.C.



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9. **Ld. ACMM vide his Impugned Order dated 28.10.2020** observed that there was no ground to disbelieve the Statement of Sh. Rakesh Kumar Chaudhary who had fully supported the averments made in the Complaint dated 29.09.2008. Moreover, the Investigating Officer had not even bothered to take the CDRs of the Petitioner to ascertain the location and the truthfulness and the averments made in the Complaint dated 29.09.2008. It was observed that this was a crucial piece of evidence which for the reasons best known to the I.O., have not been collected by him. *It was further observed that from the Complaint dated 29.09.2008 coupled with the Bills that were annexed, was prima facie sufficient to disclose the offence under Section 406 IPC. Consequently, the Petitioner, Smt. Manoranjana Sinh was summoned vide Impugned Order dated 28.10.2020.*

10. **The Summoning Order dated 28.10.2020 has been challenged by the Petitioner** who has claimed that she is a 54 years old woman who has estranged relationship with her husband for nearly one and a half decades. It is stated that the material relied upon by the Complainant was supported by the self-serving Statements of the Complainant, Sh. Tarun Jain and the Sh. Rakesh Kumar Chaudhary, Personal Assistant to her estranged husband, Sh. Matang Sinh.

11. The Petitioner further asserted that in the first Complaint dated 27.09.2008 which was registered vide DD No.45B, was filed before Police Station Kotla Mubarakpur, wherein it was alleged that the jewellery had been delivered in July and August, 2008 against which the money had not been received. On this Complaint, investigation was carried and *it was closed by noting that the dispute involved was civil in nature.*



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12. The Complainant, Sh. Tarun Jain then chose to file second Complaint on 29.09.2008 on the same allegations in Police Station Mandir Marg on which the present FIR No.291 of 2008, was registered. The Petitioner immediately filed a Reply before the Investigating Officer.

13. It is asserted by the Petitioner, Smt. Manoranjana Sinh that self-serving approval Memo on a loose paper has been filed by the Complainant in support of delivery of the jewellery articles to the Petitioner. The investigations revealed that there was no serial number on the Approval Memo and different ink had been used by the author while preparing this loose slip. The recipient is shown to be Sh. Rakesh Kumar Chaudhary Personal Assistant of the estranged husband of the Petitioner. The investigations revealed that the Complainant, Sh. Tarun Singh did not maintain any record of these approval slips and concluded that the document had been prepared subsequently in a well thought strategy.

14. The Complainant had given names of two persons as the source of jewellery, out of which one was Sh. Kapil Jain. His statement was recorded, wherein he stated that he was the tenant of the Complainant, Sh. Tarun Jain and had family relations with him. He took time to furnish the details of procurement source and supply his Stock Register, but he failed to make available any document to the I.O. Sh. Rakesh Kumar Chaudhary was examined, but he refused to give anything in writing and did not cooperate in the investigations. The delivery boy was also examined, who though stated that he had delivered the jewellery, but did not take the signatures of the Petitioner, Smt. Manoranjana Sinh on the Approval Slip, but signed it himself after returning it to the shop.



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15. The Petitioner has contended that the Investigating Officer rightly did not give any credence to the statement of the Personal Assistant, Sh. Rakesh Kumar Chaudhary not because he did not cooperate, but because of the ongoing matrimonial disputes between her and her husband, Sh. Matang Sinh. The I.O. also found that there was no explanation for the above-mentioned discrepancies in the three Complaints made by the Complainant. Considering that there was not a single signature of the Petitioner on the documents which were ex-facie manipulated and the discrepancy has not been sufficiently explained by the Complainant, the Closure Report had been rightly filed.

16. The I.O had moved an Application under Section 91 Cr.P.C. to ask the Complainant, Sh. Tarun Jain to produce certain documents so that his Complaint could be substantiated, but he failed to respond and the Application was disposed of by the Ld. Trial Court by observing that the powers of the I.O and the Court were co-terminus and the appropriate steps may be taken by the I.O for non-compliance of the Notice seeking documents.

17. The petitioner has further asserted that the FIR was registered on 11.10.2008 while the Closure Report was filed on 09.12.2014, which is beyond the period of three years for concluding the investigations, in terms of Section 468 Cr.P.C. The Closure Report has been filed after six years, even though the Closure Report was prepared on 09.12.2014. There was no Application for condonation of Delay in filing the Closure Report, was filed by the Prosecution and the Closure Report was patently barred by limitation.



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18. The Petitioner has further submitted that the Protest Petition to the Closure Report had been filed nearly one year and two months after it was filed in the Court.

19. The *Impugned Order dated 28.10.2020 is assailed on the grounds* that the cognizance taken by the Ld. ACMM was beyond a period of three years within which the Chargesheet should have been filed.

20. It has also not been considered that the Complainant, Sh. Tarun Jain and the investigations did not reveal any offence, but essentially a civil dispute on account of non-payment of the alleged goods supplied to the Petitioner. Even if the case of the Complainant was to be accepted, there is no averment that he ever demanded back the goods allegedly supplied to the Petitioner. The only assertion is the alleged non-payment of the dues with regard to the alleged supply of jewellery which does not constitute an offence under Section 406 IPC.

21. Reliance has been placed on T.T. Antony vs. State of Kerala (2001) 6 SCC 181, to submit that registration of FIR in the present case was not merited. Furthermore, the loose sheets cannot be considered any kind of evidence as the Supreme Court in the case of Common Cause (A Registered Society) and Ors. vs. Union of India (UOI) and Ors. (2017) 11 SCC 731 had observed that the loose sheets of paper are wholly irrelevant as evidence being not admissible under Section 34 of the Indian Evidence Act, 1872 to constitute valid evidence.

22. The Prosecution has taken 13 years after the Complaint was filed, which constitutes infringement of right to life under Article 21 of Constitution of India. The long delay in filing the Report is denial of fair trial as has been held in the case of Abdul Rehman Antulay and Ors. vs. R.S.



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Nayak and Ors. (1992) 1 SCC 225. Reliance has also been placed on State of Haryana and Ors. vs. Ch. Bhajan Lal (1992) to assert that even if the prosecution version is accepted in *toto*, it would not result in conviction and the proceedings are liable to be quashed.

23. *It is, therefore, submitted that the Summoning Order dated 28.10.2020 is liable to be set aside.*

24. ***Respondent No.2/Complainant, Sh. Tarun Jain in his detailed Reply*** has submitted that he has clearly stated that he had shown the jewellery to the Petitioner, Smt. Manoranjana Singh and her family members and that she had kept the jewellery on the pretext of finalizing the same and had assured to give the money for the jewellery selected by her and return the rest of the jewellery, but till date neither the jewellery has been returned nor the money has been paid. The jewellery given to the Petitioner was worth Rs.84,47,700/-. He consequently made the Complaint dated 29.09.2008 on which FIR No. 291/2008 was registered, on 11.10.2008.

25. It is further submitted that the Ld. ACMM has cogently considered all the material facts to conclude that prima facie offence under Section 406 IPC was made out and has rightly summoned the Petitioner, Smt. Manoranjana Singh.

26. It is further submitted that the Order of Ld. ACMM taking cognizance on 28.10.2020 was an Order for not taking cognizance under 190 Cr.P.C. but for issue of process under Section 204 Cr.P.C. and therefore, the question of limitation would not arise.

27. It is further explained that three Complaints had to be filed by the Complainant, Sh. Tarun Jain as he was being made to run pillar to post by



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all the Police Stations on jurisdictional issue, but the FIR No. 291/2008 has been registered only on the present Complaint dated 29.09.2008.

28. It is further asserted that the I.O instead of putting genuine efforts to take action against the culprits, completely defied his obligations and has failed to discharge his responsibility towards detection of crime. The perusal of Closure Report reflects that the I.O. was hand in glove with the accused as he discredited even the independent witnesses, documents and statements that were filed along with the Closure Report. The offence under Section 406 IPC for misappropriating the jewellery given to the Petitioner, Smt. Manoranjana Sinh is clearly made out.

29. *There is no infirmity in the Impugned Order dated 28.10.2020 and the present petition is liable to be dismissed.*

30. **Submissions heard and record perused.**

31. *The first aspect which emerges* is that the Complainant, Sh. Tarun Jain made a Complaint dated 27.09.2008 to SHO, P.S. Kotla Mubarakpur, wherein he detailed the jewellery items worth Rs.75 lakhs which were delivered by him to the Petitioner Sinh at her residence 7C, Doctors Lane, Gole Market, on 27.07.2008. It was stated that this jewellery was purchased from him by the Petitioner, Smt. Manoranjana Sinh and she promised to make the payment immediately on return from Hyderabad in the first week of September, 2008.

32. Likewise, the Complainant also made another Complaint dated 29.09.2008 to Police Station Mandir Marg, wherein again he stated that the Petitioner, Smt. Manoranjana Sinh has been buying jewellery from him since last many years. In the evening of 18.07.2008, he showed her various pieces of jewellery in the presence of Shri Rakesh Kumar Chaudhary



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Personal Assistant to Sh. Matang Sinh, her husband and stated that “*I like everything and I was to show them to my husband once, and then make the payment in 2-3 day’s time. Also, I need some things to gift to our friends in Hyderabad, once he approves*”. When he requested for some part payment, she assured that there was nothing to worry as the same would be taken care of by her husband.

33. There was a second Complaint dated 27.09.2008 filed before the Police Station Kotla Mubarakpur, wherein similar averments were made. ***The FIR No.291/2008 got registered on the second Complaint dated 29.09.2008.***

34. Though there may be some discrepancy in giving the total number of pieces of jewellery or the date on which they were supplied, but one consistent fact which emerges from all the three Complaints is that those jewellery articles had been purchased by the Petitioner, Smt. Manoranjana Sinh with an assurance that the payment would be made eventually. It is the contention of the Complainant himself that he had been supplying the jewellery since many years, which reflects that there was a relationship of trust between the Petitioner, Smt. Manoranjana Sinh and the Complainant, Sh. Tarun Jain.

35. It is the averment of the Complainant, Sh. Tarun Jain himself that he had sold various pieces of jewellery, the total value of which was Rs.84,47,700/- and the Petitioner, Smt. Manoranjana Sinh subsequently failed to make payments of these items. *It is not a case of breach of trust, but is a case of non-payment of the jewellery supplied to the Petitioner. It is essentially in the realm of civil dispute and no prima facie case under Section 406 IPC is disclosed.*



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36. *Another aspect is that the Complainant, Sh. Tarun Jain* in order to bring in the case under Section 406 IPC, had subsequently stated that the jewellery items had been supplied on approval basis and he had been told that those pieces which are liked would be retained, while the other pieces would be returned.

37. To corroborate his assertions, the Complainant has placed on record the loose slip dated 23.08.2008 reflecting the delivery of two sets of bangles at the residence of the Petitioner at 47, Gulmohar Park, New Delhi. Pertinently, it is clearly evident to the naked eye that there is an overwriting to make the date as 23.08.2008; the date on the Slip has clearly been changed.

38. This receipt though has the signatures of the Complainant, Sh. Tarun Jain and apparently the delivery boy, but pertinently does not bear the signatures of the person who received these articles. A person, that too a Jeweller, who has taken care and the caution to send a Delivery Receipt for delivering the goods, pertinently does not take the signatures of the Recipient in acknowledgement. This document, therefore, does not even prima facie corroborate the delivery of two bangles at the residence of the Petitioner, Smt. Manoranjana Sinh when admittedly she was not even present in Delhi on the given date.

39. The Complainant in the like manner, has relied on a Receipt dated 18.07.2008 in respect of Diamond Bangles, Diamond Necklace, Emerald necklace and three pieces of Ruby Cut Pear Shape, which are stated to have been delivered at 7, Doctors Lane on 18.07.2008. This Receipt has an endorsement of the goods having been received by Rakesh Chaudhary on



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behalf of the Petitioner and the value of the goods has been stated to be Rs.81,82,700/-.

40. Even if it is accepted though disputed, that these goods were supplied to the Petitioner Smt. Manoranjana Sinh, but has already noted above, these were the goods that had been purchased by her. It is not a case of entrustment, as is alleged by the Complainant, Sh. Tarun Jain.

41. Ld. ACMM, therefore, fell in error in not appreciating that this was a case of purchase of goods for which allegedly the payment was not made. Essentially, it is a case of non-payment of purchased goods, which is a civil dispute and does not come within the four corners of Section 406 IPC.

Limitation under Section 468 Cr.P.C.:

42. ***In the end, it would be pertinent to mention that according to the Complaint***, the jewellery had been supplied in July-August, 2008. The FIR was registered on 11.10.2008. The Closure Report was filed on 09.12.2014, which is beyond a period three years from the date of registration of FIR for the offence under S.406 IPC.

43. Ld. ACMM has rejected the Closure Report and taken cognizance on 28.10.2020 and had taken the cognizance. Ld. ACMM should have been considered the aspect of Limitation under ***Section 468 Cr.P.C*** and the grounds for condonation of delay thereunder, before taking cognizance.

44. In the present case, the Closure Report itself got filed belatedly after about 6 years of filing the Complaint and Registration of FIR and the cognizance had been taken after the period of six years. Clearly, there was no condonation of delay sought in filing the Closure Report before taking the cognizance nor any granted by the Ld. ACMM.



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45. Ld. Counsel for the Complainant has contended that the cognizance was taken under S.204 Cr.P.C. and not under S.190 Cr.P.C. and therefore, the cognizance was taken within limitation. However, it was the Final Report filed under S.173Cr.P.C. and not on the Complaint of the Respondent. The cognizance was taken under S.190 Cr.P.C. and this contention of the Respondent is without any merit.

46. *On this ground of limitation as well, the FIR No.291/2008 is liable to be quashed.*

Conclusion:

47. In the light of the aforesaid discussion, the Summoning Order dated 28.10.2020 and the FIR No.291/2008 along with the cognizance and the proceedings therein is hereby, quashed.

48. The Petition is allowed and is accordingly disposed of along with pending Application(s).

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 30, 2025

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