



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.11.2025

Coram:

The Honourable Mrs.Justice T.V.THAMILSELVI

Crl.A.No.1835 of 2025

Metal Queen,
A Partnership firm
Rep. by its Partner
Mr.S.Manikandan,
S/o. K.Shanmugam,
No.55, Raji Flats,
Devaki Nagar, Off Ring Road,
Ponniammanmedu,
Chennai – 600 110.

...Appellant

Versus

1.Mr.Ruishit Bipinbhai Patel
C/o. PEC Pumps Engineering Co. Pvt. Ltd.

2.Mr.Kesha Rushit Patel
C/o. PEC Pumps Engineering Co. Pvt. Ltd.

Residing at
PEC Pumps Engineering Co. Pvt. Ltd.,
No.C39, GIDC Estate, Near Fire Station,
Odhav, Ahmedabad,
Gujarat – 383 415.

...Respondents

This Criminal Appeal is filed under Section 419(4) of the Bharatiya
Nagarik Suraksha Sanhita praying to set aside the order passed in



C.C.No.4727 of 2018 on the file of the II Fast Track Court Judge at Allikulam, Egmore and restore the case to file to be tried on merits.

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For Appellant : Mr.S.Thiruvengadam

JUDGMENT

This Criminal Appeal has been preferred by the Appellant/Complainant seeking to set aside the Order dated 13.09.2024 in C.C.No.4727 of 2018 passed by the learned Metropolitan Magistrate, Fast Track Court-II, Egmore @ Allikulam, Chennai and to restore the case in C.C.No.4727 of 2018 to file to be tried on merits.

2. The brief facts of the case are that Appellant/Complainant is a partnership firm carrying on the business of metal fabrication and other allied work and during the course of its business, Appellant/Complainant required pneumatic pressure pumps and needle valve. While Mr.S.Manikandan, Partner of the Appellant firm was searching in the website, he saw an advertisement of Respondents/Accused that Respondents/Accused are carrying on the business and dealing with the items required by the Appellant/Complainant. Therefore, Appellant/Complainant had placed orders with the Respondents/Accused,

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pursuant to which, Respondents/Accused directed the Appellant/Complainant to send the initial amount of Rs.12,87,500/- to their personal account lying in ICICI Bank, Ahmedabad, Odhav Branch. Believing the false representation of the Respondents/Accused, Appellant/Complainant sent the initial amount of Rs.12,87,500/- to the bank account of Respondents/Accused.

3. After the receipt of said amount, Respondents/Accused avoided the phone calls of Appellant/Complainant. When the Partner of Appellant firm went to the place of Respondents/Accused and enquired about the orders placed by Appellant/Complainant, Respondents/Accused admitted that they did not possess such material as promised by them and they issued the following cheques to Appellant/Complainant:

- (i) Cheque No.462912 dated 20.09.2017 for a sum of Rs.54,000/-
- (ii) Cheque No.000102 dated 25.09.2017 for a sum of Rs.1,58,313/-
- (iii) Cheque No.000101 dated 16.09.2017 for a sum of Rs.1,98,000/-
- (iv) Cheque No.000099 dated 19.09.2017 for a sum of Rs.4,00,000/-
- (v) Cheque No.000100 dated 22.09.2017 for a sum of Rs.4,00,000/-



4. When the Appellant/Complainant presented the aforesaid 5 cheques for encashment, 3 cheques viz., Cheque No.462912 dated 20.09.2017; Cheque No.000102 dated 25.09.2017 and Cheque No.000101 dated 16.09.2017 were honoured, but, Cheque No.000099 dated 19.09.2017 was returned dishonoured on 20.09.2017 for the reason, “Funds Insufficient”. When it was brought to the knowledge of Respondents/Accused that Cheque No.000099 dated 19.09.2017 issued by them for a sum of Rs.4,00,000/- was returned dishonoured, Respondents/Accused agreed to repay the cheque amount, but, they have paid only a sum of Rs.1,00,000/- to Appellant/Complainant. So, Appellant/Complainant had issued a Legal Notice to Respondents/Accused calling upon the Respondents/Accused to pay the balance cheque amount of Rs.3,00,000/- and the said legal notice was received by the 1st Respondent on 28.10.2017, but, 2nd Respondent refused to receive the legal notice. Therefore, Appellant/Complainant had preferred a complaint against the Respondents/Accused for the offence under Sections 138 & 141 of the Negotiable Instruments Act, 1881 before the learned Metropolitan Magistrate, Fast Track Court-II, Egmore @ Allikulam, Chennai. The said complaint was taken on file in C.C.No.4727 of 2018.



5. When the case in C.C.No.4727 of 2018 was taken up for hearing on 13.09.2024, Appellant/Complainant was absent. Hence, the learned Metropolitan Magistrate, Fast Track Court-II, Egmore @ Allikulam, Chennai vide Order dated 13.09.2024 in C.C.No.4727 of 2018, dismissed the complaint of Appellant/Complainant and acquitted the Respondents/Accused. Aggrieved by the same, Appellant/Complainant has preferred the present Criminal Appeal before this Court.

6. The learned counsel for Appellant/Complainant submitted that Respondents/Accused are well aware of the case and they are regularly sending messages through SMS to Appellant/Complainant, but, Respondents/Accused are evading the Court summons with the connivance of local Police and hence, Appellant/Complainant had filed a Memo before the Court below praying to issue Non Bailable Warrant to Respondents/Accused.

6.1. It is further submitted by the learned counsel for Appellant/Complainant submitted that Appellant/Complainant was regularly appearing before the Court below and he was absent only on 13.09.2024.



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The non-appearance of Appellant/Complainant on 13.09.2024 is neither willful nor wanton. Without considering the regular appearance of Appellant/Complainant in the previous hearings, the learned Metropolitan Magistrate has passed the impugned order.

6.2. The learned counsel for Appellant/Complainant also submitted that Appellant/Complainant has a fair chance of succeeding in the case in C.C.No.4727 of 2018 on the file of learned Metropolitan Magistrate, Fast Track Court-II, Egmore @ Allikulam, Chennai and also, Appellant/Complainant is ready and willing to co-operate with the trial proceedings. Therefore, the learned counsel prayed that the impugned order may be set aside and the case in C.C.No.4727 of 2018 may be restored on file.

7. Heard the learned counsel for Appellant/Complainant and perused the materials available on record.

8. In the present case, Appellant/Complainant had placed orders with the Respondents/Accused for purchase of pneumatic pressure pumps and



needle valve, pursuant to which, Respondents/Accused had received the initial amount of Rs.12,87,500/- from the Appellant/Complainant. After the receipt of said amount, when the Partner of Appellant firm enquired the Respondents/Accused about the orders placed by the Appellant firm, Respondents/Accused admitted that they did not possess such material as promised by them and they issued 5 cheques to Appellant/Complainant. When the Appellant/Complainant presented the said cheques for encashment, one cheque was returned dishonoured for the reason, “Funds Insufficient”. When it came to the knowledge of Respondents/Accused that Cheque No.000099 dated 19.09.2017 issued by them for a sum of Rs.4,00,000/- was returned dishonoured, they agreed to repay the cheque amount, but, they have paid only a sum of Rs.1,00,000/- to Appellant/Complainant. Therefore, Appellant/Complainant had issued a Legal Notice to Respondents/Accused, but, even then, Respondents/Accused did not repay the cheque amount. Therefore, Appellant/Complainant had preferred a complaint against the Respondents/Accused for the offence under Sections 138 & 141 of the Negotiable Instruments Act, 1881 before the Court below. The said complaint was taken on file in C.C.No.4727 of 2018. When the case in C.C.No.4727 of 2018 was taken up for hearing on



13.09.2024, Appellant/Complainant was absent and thus, the Court below has dismissed the complaint of Appellant/Complainant and acquitted the Respondents/Accused. Hence, Appellant/Complainant has preferred this Criminal Appeal.

9. As far as this case is concerned, though the Respondents/Accused are very well aware of the case and they are sending SMS to Appellant/Complainant, Respondents/Accused are evading the Court summons with the connivance of local Police. On the other hand, Appellant/Complainant was regularly appearing before the Court below in the previous hearings. However, the Court below has dismissed the complaint of Appellant/Complainant for his non appearance on 13.09.2024.

10. Considering the fact that the impugned order passed by the Court below is a cryptic order and the Appellant/Complainant is ready to co-operate with the trial proceedings, this Court is inclined to allow this Criminal Appeal by setting aside the impugned order and restoring the case in C.C.No.4727 of 2018 on the file of learned Metropolitan Magistrate, Fast Track Court-II, Egmore @ Allikulam, Chennai.



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11. Accordingly, this Criminal Appeal is allowed and the Order dated 13.09.2024 in C.C.No.4727 of 2018 passed by the learned Metropolitan Magistrate, Fast Track Court-II, Egmore @ Allikulam, Chennai is set aside. Consequently, the learned Metropolitan Magistrate, Fast Track Court-II, Egmore @ Allikulam, Chennai is directed to restore the case in C.C.No.4727 of 2018 on file and dispose of the same on merits and in accordance with law, within a period of 4 weeks from the date of receipt of a copy of this judgment.

28.11.2025

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Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Metropolitan Magistrate,
Fast Track Court-II, Egmore @ Allikulam,
Chennai.

2.The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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