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CRL OP No. 17582 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2026

CORAM

THE HON'BLE MRS.JUSTICE S.ALLI

**CRL OP No. 17582 of 2025 and
CRL MP No. 11236 of 2025**

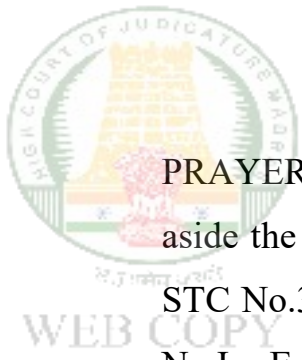
1. M/s.SVEM Infrastructures,
Rep by its Managing Partner,
P.Eswaramoorthi (Age-51),
No.109-C, Brindavan Nagar,
Opp TNSTC Depot, Avinashi Road,
Karumathapatti, Coimbatore-641 649.
2. P.Eswaramoorthi
S/o.Perumal Gounder,
Managing Partner, M/s.SVEM Infrastructures,
No.109-C, Brindavan Nagar,
Opp TNSTC Depot, Avinashi Road,
Karumathapatti, Coimbatore-641 649.
3. Geetha
W/o.P.Eswaramoorthi,
Partner, M/s.SVEM Infrastructures,
No.109-C, Brindavan Nagar,
Opp TNSTC Depot, Avinashi Road,
Karumathapatti, Coimbatore-641 649.

..Petitioner(s)

Vs.

M/s.RS Development and Constructions
India Pvt Ltd.,
Rep by its Chief Manager,
Mr.Nellaiappan (Age 44),
No.131/1, A.P.T.Road,
Erode-638 003.

..Respondent(s)



PRAYER : Petition filed under Section 482 of Cr.P.C. and 528 of BNSS, to set aside the docket order dated 16.04.2025 passed in Crl.M.P.Sr.No.2784/2025 in STC No.331/2022 and direct the Learned Judicial Magistrate, Fast Track Court No.I, Erode to take on file and dispose on merits the petition in Crl.M.P.Sr.No.2784/2025 in S.T.C.No.331/2022.

For Petitioner(s): Mr.S.Sathish Rajan

For Respondent(s): Mr.T.Gopinath

Order

This Criminal Original Petition has been filed to set aside the docket order dated 16.04.2025 passed in Crl.M.P.Sr.No.2784 of 2025 in STC No.331 of 2022 and direct the learned Judicial Magistrate, Fast Track Court No.I, Erode to take Crl.M.P.Sr.No.2784 of 2025 in S.T.C.No.331 of 2022, on file and dispose the said petition on merits.

2. The learned counsel for the petitioners would submit that the respondent / complainant has filed a private complaint against the petitioners and it is pending before the learned Judicial Magistrate, Fast Track Court – I, Erode in S.T.C.No.331 of 2022. In the said case, the petitioners have preferred a petition under Section 202(1) of Cr.P.C., in Crl.M.P.SR No.2784 of 2025 in STC.No.331 of 2022 seeking a mandatory enquiry under Section 202(1) of Cr.P.C. However, the learned Judicial Magistrate has returned the petition stating that “case was taken cognizance after under section 202(2) of Cr.P.C.,

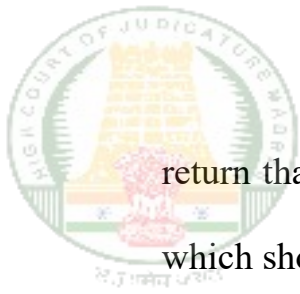


enquiry. Hence, the petition is returned as not maintainable”. The said return was complied with and re-presented before the Court and again, the petition was returned for the following defects:

- (i) Copy of citations not enclosed.
- (ii) Already petition returned on case was taken cognizance after under Section 202(2) of Cr.P.C., enquiry. Certified copy of cognizance order also obtained by the accused on 04.04.2025 without noticing the enquiry under Section 202 Cr.P.C., on cognizance order the petitioner / accused represented the petition under Section 202(1) of Cr.P.C. Since already under Section 202 Cr.P.C., enquiry conducted. This petition is returned as not maintainable.

3. The learned counsel for the petitioners would further submit that the learned Judicial Magistrate has failed to note that the mandatory enquiry under Section 202 (1) Cr.P.C., would arise only after cognizance is taken and not at the pre-cognizance stage. Therefore, the return order of the learned Judicial Magistrate in CrI.M.P.SR.No.2784 of 2025 in STC.No.331 of 2022 has to be set aside and the learned Judicial Magistrate may be directed to take the petition on file and dispose of the same on merits.

4. It is the main contention of the learned counsel for the petitioners that the enquiry under Section 202(1) Cr.P.C., must have been done after taking cognizance of the case. But the learned Judicial Magistrate has stated in the

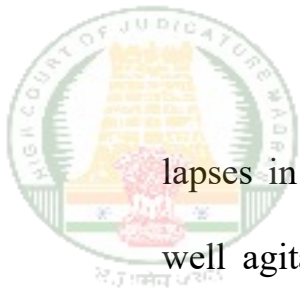


return that cognizance has been taken after conducting Section 202 (2) enquiry which shows that he has failed to follow the procedure as it is.

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5. Admittedly, it is a private complaint filed by the respondent against these petitioners for an offence under Section 138 of Negotiable Instruments Act. The learned Judicial Magistrate, Fast Track Court – I, Erode, has taken cognizance and proceeded further and afterwards the petitioners came forward to file a petition under Section 202 (1) Cr.P.C., seeking mandatory enquiry. The said petition was returned by the learned Judicial Magistrate on the ground that cognizance had already been taken after the enquiry under Section 202 (2) of Cr.P.C.

6. As per Section 202(1) of Cr.P.C., after taking cognizance of complaint, the learned Judicial Magistrate may postpone the issue of process against the accused and either to inquire into the case himself or direct an investigation to be made by the police officer or any such person as he deems fit. Therefore, the procedure under Section 202(1) Cr.P.C. is for the limited purpose of determining whether there is sufficient ground for proceeding against the accused or not. In the case on hand, the learned Judicial Magistrate has already taken cognizance and came to a conclusion that it has to be proceeded further and therefore, he has ordered to issue summons to the accused. In these circumstances, if the petitioners found that there is any procedural violation or



lapses in conducting the enquiry under Section 202(1) Cr.P.C. they can very well agitate the same before the Trial Court. The learned Magistrate having decided that there are sufficient ground to proceed against the accused, ordered to issue summons.

7. In these circumstances, it is not conducive to set aside the order passed by the learned Judicial Magistrate dated 16.04.2025 in Crl.M.P.SR.No.2784 of 2025 in STC.No.331 of 2022.

8. In the result, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

21.08.2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

GSK



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To
Judicial Magistrate,
Fast Track Court No.I,
Erode.

CRL OP No. 17582 of 2



S.ALLI J.

GSK

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