



Crl.O.P.No.24153 of 2018

and

Crl.M.P.Nos.13643 and 13646 of 2018

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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Dated: 09.12.2021

Coram:

**THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR**

Crl.O.P.No.24153 of 2018

and

Crl.M.P.Nos.13643 and 13646 of 2018

1.Mr.Y.P.Ravi,

2.Mrs.Isha,

... Petitioners/Accused

**/versus/**

1.State rep by its,  
Inspector of Police,  
J-6, Thiruvanmiyur Police Station,  
(Crime No.1518 of 2015)

2.Mr.K.Muthumanickam,  
S/o.M.Kumar,

...Respondents/  
Defacto Complainant

**Prayer:** This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.4587 of 2015 pending on the file of learned 18<sup>th</sup> Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners

: Mr.M.P.Rajendiran, for  
M/s.Swaraj Associates



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For R1 : Mr.R.Kishore Kumar  
Government Advocate  
(Crl.Side)

For R2 : Mr.D.Lakshmipathy

### **ORDER**

This Criminal Original Petition has been filed to call for the records pertaining to C.C.No.4587 of 2015 on the file of the learned 18<sup>th</sup> Metropolitan Magistrate, Saidapet, Chennai and quash the same.

2. When the matter is taken up for hearing, Mr.M.P.Rajendiran, learned counsel appearing for the petitioners submitted that he has given change of vakalath for the petitioners in the last hearing. His submission is recorded. There is no representation for the petitioners and this petition has been filed to quash the proceedings under 138 of Negotiable Instruments Act.

3. Having gone through the materials available on record, this Court is of the considered view that, when a complaint is filed under Section 138 of the Negotiable Instruments Act, this Court cannot go into the question of fact as to the validity of the issuance of cheque and whether the cheque has been



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issued towards a legally enforceable debt or not. Those issues are factual and triable issues, which have to be decided only by way of a full fledged trial and not otherwise under Section 482 of Code of Criminal Procedure. The above view of this Court is fortified by the decision of the Hon'ble Supreme Court in ***STATE OF HARYANA AND OTHERS Vs. BHAJANLAL AND OTHERS 1992 Supp (1) Supreme Court Cases 335***, wherein the Hon'ble Supreme Court has held that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection.

4.In such a view of the matter, this Court is of the view that quashing of the case cannot be considered, at this point of time. Accordingly, this Criminal Original Petition is dismissed. It is for the petitioners to take all his defence before the trial Court. The accused are directed to appear before the trial Court, within two weeks from the date of receipt of a copy of this order and file an application under Section 436 of Code of Criminal Procedure. On such filing of the application, trial Court is directed to release the petitioners on bail on the same day on executing a bond each for a sum of Rs.10,000/-



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(Rupees Ten thousand only), each with two sureties. If thereafter, they abscond, a fresh FIR can be registered under Section 229 A of the Indian Penal Code. Consequently, connected Criminal Miscellaneous Petitions are closed.

09.12.2021

Index : Yes/No.  
Internet : Yes/No.  
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**To:**

- 1.18<sup>th</sup> Metropolitan Magistrate, Saidapet, Chennai.
- 2.The Inspector of Police, J-6, Thiruvanmiyur Police Station,  
(Crime No.1518 of 2015)
- 3.The Public Prosecutor, High Court, Madras.

**N.SATHISH KUMAR, J.**

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