



Crl.O.P.No.3614, 3620, 3624, 3628 & 3629 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

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**THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

**Crl.O.P.Nos.3614, 3620, 3624, 3628 & 3629 of 2021**

**and**

**Crl.M.P.Nos.2136, 2146, 2148, 2147 & 2128 of 2021**

1.Ranjiv Rai

Director, SBQ Steels Limited

Registered Office : No.6/13, North Avenue,

Keasavaperumalpuram,

R.A.Puram, Chennai- 600028.

2.Mr.Joseph Philip,

Director, SBQ Steels Limited,

Registered Office : No.6/13, North Avenue,

Keasavaperumalpuram,

R.A.Puram, Chennai- 600028.

... Petitioners  
(In all Crl.OPs)

Vs.

ENEXIO Power Cooling Solutions India Pvt Ltd.,  
(formerly GEA Cooling Tower Technologies (India) Pvt., Ltd.,  
Teynampet, Chennai - 600018,  
rep. by its Power of Attorney holder,  
Mr.N.Sukumaran

... Respondents  
(In all Crl.OPs)



Crl.O.P.No.3614, 3620, 3624, 3628 & 3629 of 2021

**PRAYER [CRL.OP.No.3614/2021]:** Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in CC.No.4470 of 2016 pending on the file of the Fast Tract III Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners : M/s.K.P.Anantha Krishnan

For Respondent : Mr.M.Velmurugam

**PRAYER [CRL.OP.No.3620/2021]:** Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in CC.No.5318 of 2016 pending on the file of the Fast Tract III Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners : M/s.K.P.Anantha Krishnan

For Respondent : Mr.M.Velmurugam

**PRAYER [CRL.OP.No.3624/2021]:** Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in CC.No.1479 of 2016 pending on the file of the Fast Tract III Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners : M/s.K.P.Anantha Krishnan

For Respondent : Mr.M.Velmurugam



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**PRAYER [CRL.OP.No.3628/2021]:** Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in CC.No.4469 of 2016 pending on the file of the Fast Tract III Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners : M/s.K.P.Anantha Krishnan

For Respondent : Mr.M.Velmurugam

**PRAYER [CRL.OP.No.3629/2021]:** Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in CC.No.5315 of 2016 pending on the file of the Fast Tract III Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners : M/s.K.P.Anantha Krishnan

For Respondent : Mr.M.Velmurugam

### **COMMON ORDER**

The above petitions are to quash the private complaints filed under Section 138 of the Negotiable Instruments Act.

2. It is alleged that the 1<sup>st</sup> accused company had issued cheques which were not honoured for the reason "Account Frozen" and in spite of the statutory notice, the accused did not make any payment.



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3. The learned counsel for the petitioners submits that the petitioners have nothing to do with the affairs of the company. The 3<sup>rd</sup> accused is the father of the 2<sup>nd</sup> accused who is the Managing Director of the company. The 4<sup>th</sup> accused is only an employee and a namesake Director. Except for the bald allegations that they are in-charge and responsible for the conduct of the company, there is no allegation specifying the role played by them.

4. The learned counsel would further submit that since the cheques were dishonoured for the reason “Account Frozen”, it was beyond their control and it cannot be said that the offence under Section 138 of the Negotiable Instruments Act had been committed. In support of his submission, he relies upon the Judgement of the Delhi High Court in ***Onkar Nath Goenka Vs. Gujarat Lease Finance Ltd*** reported in ***MANU/DE/1508/2008***.

5. The learned counsel for the respondent would submit that the Hon’ble Apex Court in case of ***S.P. Mani And Mohan Dairy vs. Dr. Snehalatha Elangovan*** reported in ***2022 SCC Online SC 1238*** held that it



is sufficient to allege that the petitioners were in-charge and responsible for the conduct of the business of the company. Unless the accused is able to produce documents of sterling quality to show that he was not in-charge and responsible for the conduct of the business of the company, the Court cannot quash the complaint exercising its powers under Section 482 Cr.P.C.

6. The learned counsel further submitted that the question as to whether the account was frozen before or after the cheques were issued and whether the cheques were issued deliberately knowing that the account was frozen, is a question of fact and has to be decided only during trial.

7. This Court on a reading of the complaint and on considering the submissions made by the counsels on either side is of the view that the points raised by the petitioners have to be adjudicated only before the Trial Court. The question as to whether the cheques were issued after the account was frozen or before it was frozen by the Income Tax Authorities is a question of fact and cannot be decided in this quash petition. Further, the question as to whether the petitioners/directors are in-charge and responsible to the company for the conduct of its business is also a factual



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question which has to be adjudicated in the Trial Court. Hence, this Court is not inclined to entertain these quash petitions.

8. However, the appearance of the petitioners before the Trial Court is dispensed with unless the Trial Court deems their presence necessary for the progress of the Trial. The learned Magistrate is directed to dispose of the above cases as expeditiously as possible.

9. With these observations, the Criminal Original Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed.

**30.03.2023**

Index : Yes/No  
Internet : Yes/No  
Neutral Citation : Yes/No  
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To

The Fast Tract III Metropolitan Magistrate,  
Saidapet, Chennai.



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**SUNDER MOHAN. J,**

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