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Crl.O.P.No.2249 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.2249 of 2025

N.Rajiv Naidu

... Petitioner

Vs.

1. Landmark Housing Projects
Represented by its Managing Director
P.Udhayakumar
No.27, Saravana Street, T.Nagar,
Chennai – 600 017.

2. P.Udhayakumar
Managing Director, Landmark
Housing Projects Chennai Pvt.Ltd.,
No.27, Saravana Street, T.Nagar,
Chennai – 600 017.

3. Bhuvaneshwari Udayakumar,
Director (in charge and affairs)
Landmark Housing Projects Chennai Pvt.Ltd.,
No.27, Saravana Street, T.Nagar,
Chennai – 600 017.

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the return docket order dated 09.01.2025 in the unnumbered Crl.M.P..... of 2025 on the file of the Fast Track Court No.III, Saidapet, Chennai.



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Crl.O.P.No.2249 of 2025

For Petitioner : Mr.Vaibhav Rangarajan Venkatesh

ORDER

This Criminal Original Petition is filed to set aside the returned docket order dated 09.01.2025 in un-numbered Crl.M.P.No. of 2025 on the file of the Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai.

2. The petitioner herein preferred a complaint under Section 138 of the Negotiable Instruments Act against the respondents/accused in C.C.No.121 of 2018 on the file of the Metropolitan Magistrate, Fast Track Court-III, Saidapet, Chennai. The trial Court found that the first respondent-Company and its Directors who were arrayed as A1 to A3, are guilty and thereby, A2 and A3 have been convicted and sentenced to undergo one year simple imprisonment and ordered A1-Company to pay the cheque amount as compensation to the complainant with 6% interest p.a., from the date of complaint till the date of judgment, *vide* judgment dated 02.12.2024. Aggrieved by the said conviction and sentence, A2 and A3 had preferred appeals before the Sessions Court and the same



Crl.O.P.No.2249 of 2025

were taken on file in Crl.A.Nos.812 and 813 of 2023. Along with the appeals, the applications for suspension of sentence, were filed separately. The lower Appellate Court, *vide* order dated 22.12.2024, suspended the sentence of A2 and A3 and directed them to deposit 20% of the compensation amount, within 60 days from the date of said order.

3. Assailing the order passed by the lower appellate Court, A2 and A3 had preferred Crl.O.P.No.3339 of 2024 and Crl.O.P.No.3247 of 2024 respectively, before this Court. This Court, *vide* order dated 15.02.2024, remanded the matter back for fresh consideration with a direction that the issue involved had to be decided within a period of four weeks. Therefore, the lower Appellate Court *vide* order dated 30.04.2024 had exempted A1-Company from depositing 20% of compensation amount, taking note of the fact that first accused-Company is under liquidation.

4. The petitioner-complainant, being aggrieved by the order filed Crl.O.P.Nos.14769 and 14772 of 2024 prayed to set aside the order of the lower Appellate Court dated 30.04.2024 and to direct A2 and A3 to deposit 20% of the compensation amount. This Court *vide* order dated



CrI.O.P.No.2249 of 2025

23.10.2024, directed A2 and A3 to deposit 20% of the cheque amount within 15 days from the date of that order. Since the accused persons have not complied with the order, the petitioner-complainant filed a petition under Section 425 Cr.P.C., before the trial Court, praying to issue conviction warrant against A2 and A3. However, the trial Court returned the petition by passing docket order stating that as there is no specific direction to the Court to secure the accused persons. Challenging the same the present petition is filed by the petitioner.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. On a perusal of the records, it is seen that challenging the order of conviction and sentence, the accused persons A2 and A3 have already preferred appeals and the same are pending for consideration. Therefore, the petitioner-complainant is directed to approach the lower Appellate Court, where the appeals are still pending and work out his remedy in the manner known to law.



Crl.O.P.No.2249 of 2025

7. In view of the above facts and circumstances, this Criminal

Original Petition is dismissed with the above liberty.

30.01.2025

Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

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To

The Metropolitan Magistrate,
Fast Track Court No.III,
Saidapet, Chennai.



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Crl.O.P.No.2249 of 2025

P.VELMURUGAN, J

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Crl.O.P.No.2249 of 2025

30.01.2025