



Crl.O.P.Nos.4187 & 5565 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.Nos.4187 & 5565 of 2025
and Crl.M.P.Nos.3610 & 3612 of 2025

Crl.O.P.No.4187 of 2025 :-

Dr.Ranganathan

... Petitioner

Vs.

Dr.Lakshmanan

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to direct the Judicial Magistrate No.I, Villupuram, Villupuram District to expedite the trial in S.T.C.No.796 of 2024 pending trial on the file of the Judicial Magistrate No.I, Villupuram, Villupuram District.

For Petitioner : Mr.K.G.Senthil Kumar

For Respondent : Mr.N.R.Elango, Senior Counsel
For Mr.A.S.Ashwin Prasanna

Crl.O.P.No.5565 of 2025 :-

R.Lakshmanan

... Petitioner

Vs.

G.Ranganathan

... Respondent



Crl.O.P.Nos.4187 & 5565 of 2025

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in S.T.C.No.796 of 2024 pending on the file of the learned Judicial Magistrate No.I, Villupuram and quash the same.

For Petitioner : Mr.N.R.Elango, Senior Counsel
For Mr.A.S.Ashwin Prasanna

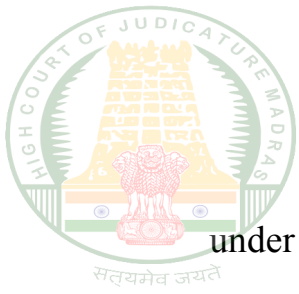
For Respondent : Mr.K.G.Senthil Kumar

COMMON ORDER

The petition in Crl.O.P.No.5565 of 2025 has been filed to quash the proceedings in S.T.C.No.796 of 2024 on the file of the learned Judicial Magistrate No.I, Villupuram, thereby taken cognizance for the offences under Sections 138 & 142 of the Negotiable Instruments Act (hereinafter referred to as “NI Act”) and the petition in Crl.O.P.No.4187 of 2025 has been filed to expedite the trial in S.T.C.No.796 of 2024 pending trial on the file of the Judicial Magistrate No.I, Villupuram, Villupuram District.

Crl.O.P.No.5565 of 2025:-

2. The petitioner in Crl.O.P.No.5565 of 2025 is the accused in the complaint lodged by the respondent for the offences punishable



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under Sections 138 & 142 of NI Act. The respondent lodged complaint

alleging that the petitioner borrowed loan for his family expenses and for election expenses to the tune of Rs.2.50 crore, by five instalments during the month of March 2021. On borrowal of the said amount the petitioner had issued post dated cheques and instructed the respondents to present those cheques on 13.11.2023 or later dates. Accordingly the respondent had presented one of the cheques for collection on 15.11.2023 and the same were returned dishonoured for the reasons funds insufficient. Immediately it was informed to the petitioner and he instructed to deposit once again. Accordingly, the respondent presented the cheques for collection and the same were returned for the reason that 'payment stopped by the drawer'. After causing statutory notice to the petitioner, the respondent filed complaint.

3. On receipt of the complaint, the same has been taken on file in Crl.M.P.No.514 of 2024 and recorded sworn statement of the respondent and other witnesses. All the documents which are annexed along with the complaint were also marked before the trial Court. After satisfaction of the sworn statement and other statement recorded from other witnesses and also on perusal of documents which are marked

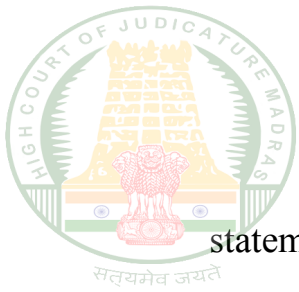


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along with sworn statement, the trial Court had taken cognizance for the offence punishable under Section 138 of the Negotiable Instruments Act in S.T.C.No.796 of 2024 and issued summons to the petitioner. Now it is pending for trial.

4. The learned Senior Counsel appearing for the petitioner would submit that the learned Magistrate did not even give any opportunity to the petitioner for cross-examination of the witnesses who are examined by the trial Court as P.W.1 to P.W.4. Further no documents were marked through P.W.2 to P.W.4 to corroborate the documents which are marked through P.W.1. Hence, he prayed to quash the above criminal proceedings.

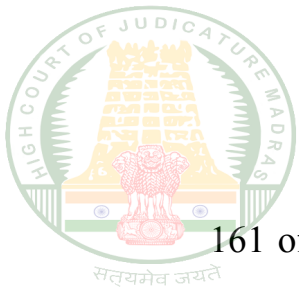
5. It is unfortunate to state that the learned Senior Counsel has raise those grounds to quash the entire proceeding in S.T.C.No.796 of 2024 since, it is the procedure while taking cognizance of the private complaint. When the private complaint filed under Sections 200 of Cr.P.C., the learned Magistrate has to follow the procedure under Sections 202 to 204 of Cr.P.C. Accordingly, in order to take cognizance, the complainant necessarily has to satisfy the trial Court by giving sworn



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statement and also producing documents. After lodgment of complaint, the trial Court recorded the sworn statement of the respondent as P.W.1 and other supporting witnesses as P.W.2 to P.W.4. Further whatever the documents filed along with the complaint were marked as exhibits. After having been satisfied with the sworn statement and other documents, which are marked before the trial Court, the trial Court had taken cognizance of the complaint lodged by the respondent for the offence punishable under Sections 138 & 142 of the NI Act, in S.T.C.No.796 of 2024 and issued summons to the petitioner.

6. During the trial, the respondent ought to have examined all the witnesses to prove his case and also can produce all the documents by way of exhibits before the trial Court. During the examination of witnesses, the petitioner can very well cross-examine those witnesses and he can also produce his witnesses as his defence. Before taking cognizance whatever the statement recorded by the trial Court can be treated as deposition. Therefore, the petitioner cannot have any audience before the trial Court before taking cognizance under the Cr.P.C. That apart, the statement recorded for taking cognizance cannot be used as evidence. These statement are like the statement recorded under Section



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161 of Cr.P.C. Therefore, this Court finds no ground to quash the entire proceedings in S.T.C.No.796 of 2024 and the present petition is liable to be dismissed.

Crl.O.P.No.4187 of 2025 :-

7. The petition in Crl.O.P.No.4187 of 2025 has been filed to expedite the trial in S.T.C.No.796 of 2024 pending trial on the file of the Judicial Magistrate No.I, Villupuram, Villupuram District.

8. In view of the above order passed in Crl.O.P.No.5565 of 2025, the trial Court viz., the learned Judicial Magistrate No.I, Villupuram is directed to dispose the case in S.T.C.No.796 of 2024, within a period of one year from the date of receipt of copy of this Order.

9. Accordingly, the Criminal Original Petition in Crl.O.P.No.5565 of 2025 stands dismissed and the Criminal Original Petition in Crl.O.P.No.4187 of 2025 stands disposed of. Consequently, connected miscellaneous petitions are closed.

28.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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1. The Judicial Magistrate No.I,
Villupuram, Villupuram District.



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G.K.ILANTHIRAIYAN, J.

rts

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