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Crl.O.P.No.5012 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2025

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5012 of 2025

and

Crl.M.P.No.3240 of 2025

Dr.Venkata Ramesh Para

... Petitioner

Vs

Dr.Pruthvinath Kancherla

S/o.Dr.Ravindranath Kancherla

Represented by Power Agent J.Raja

... Respondent

Criminal Original Petition is filed under Section 482 of Cr.P.C./528 of B.N.S.S., to call for the records and to set aside the order passed by the Trial Court in Crl.M.P.No.77406 of 2024 in C.C.No.2308 of 2021 dated 22.01.2025 on the file of XXV Metropolitan Magistrate at Egmore, Chennai.

For Petitioner : Mr.Madala Narasinga Rao

For Respondent : Mr.M.Palanivel



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ORDER

This petition has been filed challenging the order dated 22.01.2025 in CrI.M.P.No.77406 of 2024 in C.C.No.2308 of 2021 on the file of the XXV Metropolitan Magistrate at Egmore, Chennai, thereby allowing the petition filed under Section 91 of Cr.P.C. read with Section 311 of Cr.P.C. for production of the bank account of the petitioner.

2. Heard the learned counsel for both sides and perused the materials available on record.

3. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as 'the NI Act' for short). While the trial was pending, the respondent, who is the complainant, filed a petition under Section 91 of Cr.P.C. read with Section 311 of Cr.P.C. for production of the statement of account of the petitioner during the period from 15.12.2020 to 30.01.2021 by issuing summons to the Branch Manager of



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the petitioner's Bank for examining and eliciting that the petitioner was not having sufficient amount in his Bank Account for the relevant period, and the same was allowed.

4. The learned counsel for the petitioner would submit that even the Trial Court ought not to have taken cognizance under Section 138 of the NI Act, since the account of the petitioner was blocked. Therefore, the offence under Section 138 of the NI Act is not at all attracted. In support of his contentions, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Kusum Ingots & Alloys Ltd. vs. Pennar Peterson Securities Ltd. and others***, reported in ***(2000) 2 SCC 745***. In this judgment, the Hon'ble Supreme Court of India held that in order to attract the offence under Section 138 of the NI Act, a person must have drawn a cheque on an account maintained by him in a bank for payment of a certain amount of money to another person from out of that account for the discharge of any debt or other liability. Insofar as the petitioner's account is concerned, it was already blocked, and as such, no offence is made out under Section 138 of the NI Act.



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5. The learned counsel for the respondent would submit that the petitioner had already filed a quash petition on the very same ground before this Court, and the same was dismissed by this Court.

6. While the trial was pending, the respondent filed a petition under Section 91 of Cr.P.C. read with Section 311 of Cr.P.C. After allowing the said petition, the Bank Manager of the petitioner also produced the statement of account, which is yet to be marked through PW.1. Therefore, absolutely no prejudice would be caused if the statement of account of the petitioner is marked through PW.1.

7. In view of the above, this Court finds no infirmity or illegality in the order passed by the trial Court. Accordingly, this Criminal Original Petition is dismissed. However, the Trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

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

1. The XXV Metropolitan Magistrate,
Egmore, Chennai.
2. The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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