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Crl.O.P.Nos.8177 and 8193 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2025

CORAM:

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

Crl.O.P.Nos.8177 and 8193 of 2025
and Crl.M.P.Nos.5320, 5323, 5341 and 5342 of 2025

1.The Universal Package, a Firm,
Rep by its Partner A.Krishnan,
S.F.No.2/21A, Jekkeri Village,
Royakottai Main Road,
Kelamangalam,
Denkanikottai Taluk,
Krishnagiri District.

2.A.Krishnan

... Petitioners in both Crl.O.Ps

Vs

M/s.Salem Printpack,
(A Division of Ashok Agencies),
A Firm Represented by its Partner,
Ashok Kumar,
S/o.Sriramulu,
#90/1, New No.13/29 & 13/30,
Nattamangalam Main Road,
Ammanikondalampatti,
Salem – 636 010.

... Respondent in both Crl.O.Ps



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Common Prayer : Criminal Original Petitions have been filed under Section 528 of BNSS Act, 2023, pleaded to call for the records relating to the Impugned Complaint in STC No.8207 of 2023 and in STC.No.1883 of 2023 on the file of the learned Judicial Magistrate No.V, Salem, quash the same.

In both Crl.O.Ps

For Petitioners : Mr.B.Manimaran

COMMON ORDER

These Criminal Original Petitions have been filed to quash the complaints in STC No.8207 of 2023 and STC.No.1883 of 2023 on the file of the learned Judicial Magistrate No.V, Salem.

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

3. The petitioners are the accused in the complaints lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act. The case of the respondent is that, pursuant to an order placed by the petitioners, the respondent supplied goods on credit basis. As per the agreed terms and conditions, the petitioners were liable to pay interest



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on any outstanding amounts not paid by the stipulated due dates. As per the books of accounts, a sum of Rs.54,31,854.24 was due and payable by the accused as on 12.08.2021. In order to discharge the said legally enforceable debt, the petitioner issued five cheques, which were presented for collection. However, all the cheques were returned dishonoured for the reasons “Drawer Signature Differs” and “Exceeds Arrangement”. After causing statutory notice as contemplated under Section 138 of Negotiable Instruments Act, the respondent filed a complaint and the same have been taken cognizance by the Trial Court in STC No.8207 of 2023 and STC.No.1883 of 2023.

4. The learned counsel for the petitioners would submit that after issuance of cheques, the petitioners had made payment of Rs.2,00,000/-, which was not deducted by the respondents while presenting the cheques. That apart, the cheque numbers mentioned in the statutory notice issued by the respondent were incorrect and were later corrected in the complaint. Therefore, no cause of action arose for filing the complaints as the statutory notice did not comply with the mandatory requirements under Section 138 of Negotiable Instruments Act. He further submitted that two separate

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complaints have been filed for the same cause of action, which is not permissible under the Code of Criminal Procedure.

5. A perusal of the complaint and the legal notice issued by the respondent revealed that the petitioners had issued five cheques, each for a sum of Rs.10 Lakhs. All the cheques were presented for collection and were returned dishonoured for the reasons “Drawer Signature Differs” and “Exceeds Arrangement”. In the legal notice, the respondent erroneously mentioned one of the cheque numbers as 126431 instead of 126430 in the preamble portion. However, in another part of the notice, the respondent had correctly stated the cheque number and issued the notice accordingly. Specifically, in the demand portion of the notice, all the cheque numbers were correctly mentioned. That apart, each cheque gives rise to separate cause of action. In fact, with respect to one of the cheques, the respondent issued a separate legal notice. Therefore, there are two cause of action to file two complaints.



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6. In view of the above, the grounds raised by the learned counsel for the petitioners cannot be considered for quashment of the entire complaints.

7. Therefore, this Court is not inclined to quash the complaints in STC No.8207 of 2023 and in STC.No.1883 of 2023 on the file of the learned Judicial Magistrate No.V, Salem. The personal appearance of the petitioners is dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment. The Trial Court is directed to complete the Trial in STC No.8207 of 2023 and in STC.No.1883 of 2023, within a period of three months from the date of receipt of a copy of this order.



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8. Accordingly, these Criminal Original Petitions are dismissed.

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Consequently, connected Miscellaneous petitions are closed.

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Index: Yes/No

Speaking Order: Yes/No

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To

1. The learned Judicial Magistrate No.V, Salem.

2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN,J.

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