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CRL RC No. 809 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-03-2025

CORAM

THE HONOURABLE MR JUSTICE P. VELMURUGAN

CRL RC No. 809 of 2023

and

CRL MP Nos.6227 & 12800 of 2023

1. Metro Trading
Murikkal Road,
Palathingal Post,
Parappanangadi, Mallapuram,
Kerala 600098.

2. BEERAN
Managing Partner,
Metro Trading,
Murikkal Road,
Palathingal Post,
Parappanangadi,
Mallapuram,
Kerala 676303.

Petitioner(s)

Vs

1. Sheenlac Paints Limited
Represented by Mr.T.Mani,
Assistant Manager Accounts,
No.76-A/1, GKS Estates,



Block B, 11th Cross Street,
Ambattur Industrial Estate North,
Chennai 600098.

Respondent(s)

PRAYER: This petition filed under Section 397 & 401 of Cr.P.C. to call for the records of the impugned order dated 16.12.2022 in Crl.MP.No.34796 of 2022 in CC.680/2018 on the file of the Metropolitan Magistrate, Fast Track Court No.1, Egmore at Allikulam, Chennai and set aside the same.

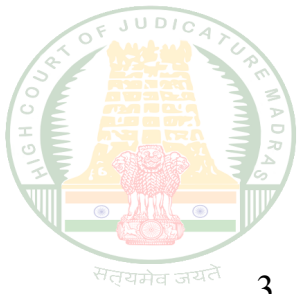
For Petitioner(s): M/s.Sharath Chandran

For Respondent(s): M/s.C.Srirangini

ORDER

This Criminal Revision Petition has been filed to call for the records in the impugned order dated 16.12.2022 passed in Crl.MP.No.34796 of 2022 in CC.680/2018 on the file of the Metropolitan Magistrate, Fast Track Court No.1, Egmore at Allikulam, Chennai and set aside the same.

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



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3. Learned counsel for the petitioners submitted that originally the respondent filed a complaint against the proprietorship concern. The respondent, knowing fully well that it is a partnership firm, instead of filing the complaint as against the partnership firm, they filed the complaint as against the proprietorship concern. The cheque has also been signed by the partner of the partnership firm. Later, the respondent filed petition seeking to amend the word “Managing Partner” instead of “Proprietor” in the complaint and the trial court allowed the same. Subsequently, the trial Court vide (*suo motu*) order dated 14.02.2023, stated that by virtue of amendment, the character of the accused was changed from Proprietorship to Partnership and hence, the same warrants framing of fresh charges as against the accused persons. If the actual drawer has already been taken cognizance of the offences, absolutely there is no need for the trial court to suo-motu re-open the case for framing fresh charges as against the accused persons. Further, though the complaint was registered on 23.01.2018 itself, impugned order was passed only on 16.12.2022 and hence, the impugned order is hit by limitation enumerated under Section 138 of the



Negotiable Instruments Act. Hence, the impugned order passed by the learned Magistrate is liable to be set aside.

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4. The respondent herein who is the complainant in C.C.No.680 of 2018, has filed a private complaint as against the petitioners herein under Sections 200 & 357 of Cr.P.C, read with Sections 138 read with Section 142 of the Negotiable Instruments Act on the file of the Fast Track Court No.I, Allikulam, Egmore, Chennai. Subsequently, the respondent filed the petition in CrI.M.P.No.34796 of 2022 seeking permission for amendment for deleting the word “Proprietor “ and to amend the same as “Managing Partner” and the same was allowed, vide impugned order dated 16.12.2022. Aggrieved by the same, the petitioners/accused have filed this criminal revision petition before this Court.

5. Admittedly, the respondent has filed a complaint against the petitioners. Originally the respondent is shown as Proprietor in the Company . However, subsequently, a petition was filed to amend the cause title and the same was allowed. When the statutory notice was served on the petitioners, the



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petitioners have not sent any reply. Subsequently, the respondent has filed a petition for amending the cause title. The Magistrate has also allowed the same. Borrowal of money and issuance of cheque, are not in dispute. The only dispute is with regard to character of entity. Mere amending of cause title would not prejudice the parties. On a perusal of the records, this Court does not find any perversity or illegality in the impugned order passed by the learned Magistrate.

6. In view of the same, the Criminal Revision Petition is dismissed. However, the petitioners are at liberty to take all their defences before the trial Court in the pending C.C.No.680 of 2018. Consequently, connected miscellaneous petition is closed.

10-03-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

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The Metropolitan Magistrate, Fast
Track Court No.1, Egmore at
Allikulam, Chennai



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P.VELMURUGAN J.

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