



Crl.O.P.No.13834 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2025

CORAM:

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

Crl.O.P.No.13834 of 2025
and Crl.M.P.Nos.9234 & 9235 of 2025

1. M/s. Revanza Leasing India
Private Limited,
Rep. by its Director,
Aarthi Lalwani,
No.23, EVR PH High Road,
Periamet, Chennai – 600 003.

2. Aarthi Lalwani

... Petitioners

Vs.

M/s. Smart Marine Services Private Limited,
Rep. by its Legal Executive,
S.Dharani Nagaraani,
No.3-B, Gaiety Palace,
Door No.1/L, Blackers Road,
Chennai.

... Respondent

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for records of the complain in S.T.C./P.C.No.4097 of 2025 on the file of the learned Metropolitan Magistrate, Fast Track Court-I at Allikulam, Chennai and to quash the same.

For Petitioners : Mr.R.John Sathyan, Senior Counsel



Crl.O.P.No.13834 of 2025

For Mr.Praveen S Purohit

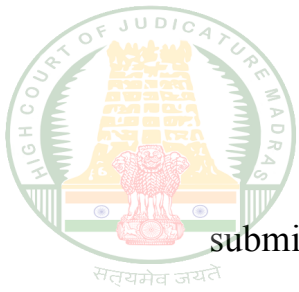
WEB COPY

ORDER

This petition has been filed to quash the proceedings in S.T.C.No.4097 of 2025 on the file of the learned Metropolitan Magistrate, Fast Track Court-I at Allikulam, Chennai, as against the petitioners thereby taken cognizance for the offences under Sections 138 of the Negotiable Instruments Act (herein after referred to as “the NI Act”).

2. The petitioners are the accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the NI Act. The case of the respondent is that they are engaged in the business of sale of containers, financial business and logistic services in domestic and international markets. At that juncture, the petitioners sought for financial assistance and borrowed a sum of Rs.1,00,00,000/-. In order to repay the said amount, the petitioners issued cheques and the same were presented for collection. However all the cheques were returned dishonoured for the reason “payment stopped by the drawer”. After issuance of notice, the respondent lodged the present complaint.

3. The learned Senior Counsel appearing for the petitioners



Crl.O.P.No.13834 of 2025

submitted that no person would borrow a sum of Rs.1,00,00,000/- by cash. Further even before the issuance of notice by the respondent, the petitioners caused notice to the respondent dated 17.07.2021, thereby calling upon the respondent to return the cheques and promissory note, which was given for the purpose of security.

4. These grounds can be testes only before the trial Court since they are mixed questions of fact and it cannot be considered by this Court, especially under Section 528 of BNSS. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing with the petition to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no *prima facie* case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 180 of the Bharatiya Nagarik Suraksha Sanhita,



Crl.O.P.No.13834 of 2025

2023.

WEB COPY

5. Fruther, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019*** dated 17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

6. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr***, held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that consititue certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or



Crl.O.P.No.13834 of 2025

not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

7. Further this Court cannot observe at this stage whether the initiation of criminal proceeding itself is malicious or not. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

8. In view of the above discussions, this Court is not inclined to quash the proceedings in S.T.C.No.4097 of 2025 on the file of the learned Metropolitan Magistrate, Fast Track Court-I at Allikulam, Chennai. The petitioners are at liberty to raise all the grounds before the trial Court. Considering the facts and circumstances of the case, the personal appearance of the second petitioner is dispensed with and she shall be represented by a counsel after filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at



Crl.O.P.No.13834 of 2025

the time of passing judgment. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

9. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

30.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts



Crl.O.P.No.13834 of 2025

WEB COPY

To

The Metropolitan Magistrate,
Fast Track Court-I,
Allikulam, Chennai.



WEB COPY



Crl.O.P.No.13834 of 2025

G.K.ILANTHIRAIYAN, J.

rts

Crl.O.P.No.13834 of 2025
and Crl.M.P.Nos.9234 & 9235 of 2025

30.04.2025