



WEB COPY



Crl.O.P.No.14525 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.14525 of 2023

and

Crl.M.P.Nos.9049 and 9052 of 2023

and

Crl.M.P.No.3768 of 2025

1. M/s.Aqua Pure Plus Pvt. Ltd.,
Represented by its Director,
Mr.S.Sakthivel.

2. S.Sakthivel

3. S.Jayanthi

... Petitioners

Vs

M/s.Paceman Finance India Pvt. Ltd.,
Rep. by Mr.Dharmesh Kumar,
Crescent Court, Suit No.21, 3rd Floor,
No.963, Poonamalle High Road,
Chennai – 600084.

... Respondent

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings in C.C.No.7169 of 2018 pending trial on the file of the FTC II Metropolitan Magistrate at Egmore, Chennai and quash the same.



WEB COPY



CrI.O.P.No.14525 of 2023

For Petitioners : Mr.C.D.Johnson
For Respondent : No appearance

ORDER

This petition has been filed to quash the proceedings in C.C.No.7169 of 2018 on the file of the Metropolitan Magistrate, Fast Track Court II, Egmore, Chennai.

2. Heard the learned counsel for the petitioners and perused the materials available on record. Though notice has been served, the respondent has not entered appearance, either in person or through Counsel.

3. The petitioners are accused in the complaint lodged by the respondent for the offences punishable under Sections 138 r/w 141 of the Negotiable Instruments Act (hereinafter referred to as 'the NI Act' for short), alleging that the respondent is in the business of finance. In the course of business, the petitioners approached for financial assistance to meet their business expenditures and they also promised to repay the amount within a period of ten months. On said request, the respondent had lent a loan to the tune of Rs. 10 lakhs on 13.01.2017 and agreed to repay the same with



Crl.O.P.No.14525 of 2023

WEB COPY

interest at the rate of 24% per annum. Thereafter, towards the repayment of the said loan, the petitioners issued a cheque for a sum of Rs. 5,63,000/-, and the same was presented for collection. However, it was dishonoured with an endorsement 'refer to drawer'. After causing statutory notice, the respondent filed a complaint.

4. The learned counsel for the petitioners would submit that the statutory notice caused by the respondent dated 28.05.2018, thereby calling upon the petitioners to pay a sum of Rs. 5,63,000/- within a period of fifteen days and the same was addressed to M/s. A Square Homes & Lands Private Limited, represented by Mr. M.V. Raghupathy and Mrs. Deepa Raghupathy. Immediately, the petitioners had sent a reply notice stating that the said notice was sent to the wrong persons and as such, called upon the respondent to withdraw the notice. It was duly received by the respondent, and even then, on the strength of the very notice dated 28.05.2018, which was sent to the wrong persons, the respondent filed a complaint for the offences punishable under Section 138 of the NI Act r/w 141 of the NI Act.



Crl.O.P.No.14525 of 2023

WEB COPY

5. Therefore, the petitioners were not at all served with any statutory notice and as such, there is no cause of action to lodge the impugned complaint. Hence, the trial Court ought not to have taken cognizance, since the respondent had no cause of action to lodge a complaint to prosecute the petitioners for the offences punishable under Sections 138 r/w 141 of the NI Act.

6. In view of the above, the impugned proceedings cannot be sustained and it is liable to be quashed. Accordingly, the proceeding in C.C.No. 7169 of 2018 is hereby quashed.

7. In the result, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed.

26.03.2025

Index: Yes/No
Neutral Citation: Yes/No
kv



Crl.O.P.No.14525 of 2023

WEB COPY

- To
1. The Metropolitan Magistrate,
Fast Track Court II, Egmore, Chennai.
 2. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.14525 of 2023

G.K.ILANTHIRAIYAN, J.

kv

Crl.O.P.No.14525 of 2023

26.03.2025