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Crl.O.P.No.17659 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.17659 of 2025 and
Crl.M.P.Nos.11382 and 11384 of 2025

Rakesh Agarwal

... Petitioner

Vs.

M/s.Shri Ram Distribution Services (P) Ltd.

Represented by its Authorised Person

M.Satish Kumar

6th Floor, Mookambika Complex

No.4, Lady Desika Road

Mylapore, Chennai - 600 004

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for records in C.C.No.4633 of 2016 pending on the file of XX Metropolitan Magistrate, Egmore at Allikulam, Chennai and quash the same as against the petitioner.

For Petitioner	: Mr.N.R.Rajagopalan
For Respondent	: Mr.J.Jawahar

ORDER

This Criminal Original Petition has been filed by the petitioner to quash the case in C.C.No.4633 of 2016 pending on the file of XX Metropolitan Magistrate, Egmore at Allikulam, Chennai as against the petitioner.



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2. The case of the respondent is that the respondent has filed a

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complaint against the petitioner and three others for the offence under Section 138, 141 and 142(A) of Negotiable Instruments Act in C.C.No.4633 of 2016 on the file of XX Metropolitan Magistrate, Egmore at Allikulam, Chennai arraying the petitioner as A4 stating that the accused defaulted in discharging their liability towards the food products supplied by the complainant. On repeated demands, the accused 2 to 4 issued four cheques (Bearing Nos.105926, 105927, 105928, 105929 dated 06.01.2014 each for Rs.50 lakhs) on behalf of A1/Company towards partial discharge of their liability and when the cheques were presented by the complainant through their banker viz., ICICI Bank Limited, Nungambakkam Branch, Chennai on 04.04.2014, the same were returned unpaid by the accused's banker namely Union Bank of India, Patel Nagar Branch, New Delhi with remarks "Payment Stopped by Drawer". Hence, the respondent/complainant issued demand notice to the accused on 12.04.2014. The same was received by A1 on 15.04.2014, however, the other accused refused to receive the notice and hence, it was returned to the sender. Even after receipt of notice by A1, the accused failed to make payment within the statutory period and therefore,



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the respondent filed the above complaint. Pending case, the petitioner has filed the present petition to quash the C.C. as against the petitioner.

3. The learned counsel for the petitioner/A4 submitted that the petitioner is only an employee under A1/Company. The promoters/ Directors of A1/Company have been arrayed as A2 and A3. The petitioner/A4 neither actively participated in the day to day affairs of A1/Company nor signed the cheques. Therefore, the petitioner cannot be held liable for the dishonouring of the cheques. Further, in the connected matter, the petitioner has moved the Hon'ble Supreme Court and the same is pending before the Hon 'ble Supreme Court. Hence, he prays either to quash the present C.C. or to stay further proceedings till the outcome of the connected matter.

4. The learned counsel for the respondent/complainant submitted that the case was filed in the year 2016 in which, the petitioner actively participated and now the matter is posted on 20.06.2025 for arguments. Only in order to protract the case, the petitioner has filed the present petition. Hence, the same is liable to be dismissed.

5. Heard both sides and perused the materials available on record.

6. A careful perusal of the complaint filed by the respondent under



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Section 138 of Negotiable Instruments Act, shows prima facie allegation against the petitioner also. Though the statutory notice was sent to the petitioner, the petitioner has refused to receive the same and thereafter, the complainant has filed the complaint, in which, the petitioner has entered appearance in the year 2016 and actively participated for more than nine years. After completion of trial and when the matter is posted for arguments, the petitioner has filed the present petition to quash the C.C., which is nothing but abuse of process of law which shows that the petitioner has not approached this Court with clean hands. Therefore, this Court is not inclined to entertain this petition.

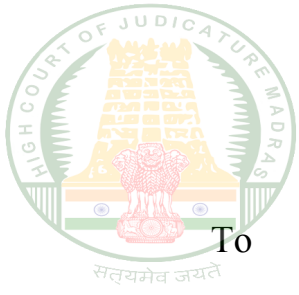
7. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

8. However, the petitioner is at liberty to take all his defence before the trial Court.

19.06.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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Note: Issue order copy on 19.06.2025.



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To

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The XX Metropolitan Magistrate,
Egmore at Allikulam,
Chennai



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