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Crl.O.P.No.18637 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.07.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.18637 of 2025

and

Crl.M.P.Nos.12420 and 12423 of 2025

Mr.Vishwanath Singh

.. Petitioner

Vs.

M/s.Palfinger India Private Limited,
Represented by its Authorized Signatory,
Mr.E.Vijayakumar,
having its Registered Office at
No.37, Varadarajapuram, Nazarathpet,
Poonamallee, Chennai-600 123.

.. Respondent

Criminal Original Petition filed under Section 528 of the BNSS / Section 428 Cr.P.C. praying to call for the records and quash the proceedings in S.T.C.No.977 of 2025 on the file of the Metropolitan Magistrate, Fast Track Court No.2, Allikulam, Chennai, against the petitioner.

For petitioner : M/s.B.A.Sujay Prasanna

For respondent: Mr.D.Ferdinand for M/s.BFS Legal

ORDER

This petition is filed praying to call for the records and quash the proceedings in S.T.C.No.977 of 2025 on the file of the Metropolitan Magistrate, Fast Track Court No.2, Allikulam, Chennai, against the

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petitioner.

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2. Learned counsel for the petitioner submitted that the petitioner has resigned from the respondent-Company much prior to the date of issuance of the cheque and the same was duly intimated to the Registrar of Companies and the same was also incorporated in the Register maintained by the Registrar of Companies. Further, notice was not duly served on the petitioner. The petitioner, on the date of serving of notice, was not acting as a Director of the Company and he had not participated in the day-to-day affairs of the Company and much prior to that, he resigned from the Company. Notice was only addressed to the Company and not the Company as an address of the petitioner. Further, the statutory notice is not served on the petitioner and the statutory complaint under Section 138 of the Negotiable Instruments Act, is also not made out. Further, based on mere omni-bus allegations made against the petitioner, the petitioner is not liable to be prosecuted. Learned counsel for the petitioner placed reliance on the judgment of the Honourable Supreme Court in the case of Vishnoo Mittal Vs. Shakti Trading Company, reported in 2025 SCC OnLine SC 558. The petitioner was arrayed as A4 in the complaint in S.T.C.No.977 of 2025 and the same is liable to be quashed for the above reasons.

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3. Learned counsel for the respondent-Company submitted that even much prior to the resignation made by the petitioner from the respondent-Company, the petitioner and other Directors, at the instructions of the other Directors, were signatories and have signed the cheque and the petitioner has also not disputed that he was not a Director at all. The only defence taken by the petitioner is that he resigned from the Company from the post of Director and therefore, he is not liable and no notice was duly served on the petitioner.

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

5. On a reading of the complaint and the allegations made against the petitioner, it is seen that the cheque was issued much prior to the date of petitioner's resignation and the cheque was post-dated cheque, whereas, on the date of issuance of the cheque, the petitioner was also one of the Directors of the respondent-Company. The further allegation is that the cheque was issued on the instructions of A2 to A5. The petitioner is also aware of the fact that the issuance of the cheque and the factum of resignation from the Company, are much later to the transaction and also the issuance of the cheque, since based on the records, the petitioner has been issued with notice. Further, whether the petitioner is liable or not, can be decided only after trial and not at this stage. At this stage, this Court

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has to see as to whether any allegation is made out against the petitioner or not and whether there are materials as against the petitioner or not, to proceed with the case. At this stage, this Court cannot conduct any roving enquiry and check the veracity of the documents. The Court has to see as to whether there are any allegations and averments made in the complaint. Therefore, the grounds taken by the petitioner are nothing but defence, which can be agitated only during the course of trial. The decision of the Honourable Supreme Court relied on by the learned counsel for the petitioner, is not applicable to the facts of the present case on hand and the same is distinguishable.

6. Hence, this petition is dismissed. However, the petitioner is at liberty to take all his defences including the ones raised now in this petition, during the course of trial before the trial Court. The miscellaneous petitions are closed.

25.07.2025

CS

To

1. Metropolitan Magistrate, Fast Track Court No.2, Allikulam, Chennai.
2. The Public Prosecutor, High Court, Madras.

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