IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.RC.No.982 of 2025

P.Viswanathan,
S/o. Palanivelu, New No.9,
Old No.3, 6th Main Road,
Gopalapuram, Chennai - 600086. ...Petitioner

Vs.

1. The State Rep. by
Sub-Inspector of Police,
EDF-II, Team-II, Vepery,
Chennai – 7.
Cr.No.96/2016

2. Narayanan Maheshwari
S/o. (late) Briji Mohan lal Rathi,
Director of M/s.Veeraganapathi Steels Pvt. Ltd., Company
No.-177/2, P.H.Road,
Legend Apartments, Flat No.-703,
Kilpauk, Chennai – 600 010. ... Respondents

PRAYER: Criminal Revision is filed under Section 438 r/w 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the Impugned Order passed in Crl.M.P.No.4440 of 2024 in C.C.No.4302 of 2020 passed by the Trial Court dated 23.10.2024 pending on the file of the Metropolitan Magistrate, Exclusively for Trial of CCB Cases (Cheating) Cases and CBCID Metro Cases, Egmore, Chennai and pass suitable order as deem fit and proper in the circumstances of the case.

For Petitioner : Mr.G.Rathish Kumar

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.side)

ORDER

This Criminal Revision has been filed as against the order passed in Crl.M.P.No.4440/2024 in C.C.No.4302 of 2020 on the file of the learned Metropolitan Magistrate, Exclusively for Trial of CCB Cases (Cheating) Cases and CBCID Metro Cases, Egmore, Chennai, thereby dismissing the petition to discharge the petitioner from the charges.

2. The case of the prosecution is that the *de facto* complainant engaged in the business of Stainless Steels. While being so, in the year 2009 the accused approached the *de facto* complainant and placed orders to supply materials to their company. Accordingly from the year 2009 the *de facto* complainant was supplying the materials to the accused on the regular basis. The accused used to withhold a part of the bill amount at the end of every financial year and informed that it will be settled at the earliest. During the year 2014-2015, 2015-2016 there was due to the tune of Rs.2,97,69,856/-. After repeated request the accused have entered into a Memorandum of Understanding with the *de facto* complainant and agreed to settle the said

amount. In order to settle the pending dues, the accused have also issued 22 post dated cheques and when the cheques were presented for collection, they were dishonoured. Therefore, the complainant initiated proceedings under Section 138 NI Act. Thereafter the complainant lodged a complaint and the same has been registered in Cr.No.96/2016 for the offences punishable under Section 406, 420 and 34 of IPC. After completion of investigation, final report has been filed and the same has been taken cognizance by the trial Court in C.C.No.4302 of 2020. While pending for framing charges, the petitioner who is is arrayed as A7, filed a discharge petition and the same was dismissed by the trial Court. Aggrieved over the same, the present Criminal Appeal has been preferred.

3. The learned counsel for the petitioner would submit that the petitioner is neither the Director nor a partner of the first accused company's day to day affairs. He stood as witness to the Memorandum of Understanding entered into between A1 and the *de facto* complainant. In fact after the dishonour of cheque, the *de facto* complainant has also filed a complaint for the offence punishable under Section 138 of NI Act. While pending trial the entire amount has been settled by the accused and all the

complaints were quashed by this Court. Therefore, the petitioner has nothing to do with the crime alleged to be committed by the other accused.

4. Per contra, the learned Government Advocate (Crl.side) appearing for the first respondent submitted that the petitioner had an active role in A1 company and he signed as witness to the Memorandum of Understanding and he had also undertaken to settle the entire dues in favour of the *de facto* complainant. Therefore, there are specific overt act and materials available to attract the charges under Section 406 & 420 IPC r/w. 34 IPC against the petitioner.

5. Heard both sides and perused the materials available on record. Though notice is served on the second respondent and her name is printed in the cause list, none appeared before this Court either in-person or through counsel.

6. A perusal of the records reveals that there are totally 8 accused and the petitioner is arrayed as 7th accused. Admittedly the petitioner is neither a Director nor partner of the first accused company. The petitioner was

working as Accountant in the first accused company. A perusal of the Memorandum of Understanding entered into between A1 and the *de facto* complainant would reveal that he had signed as one of the witness to the said document. As per the Memorandum of Understanding the other accused undertake to settle the dues to the tune of Rs.2,97,69,856/- and they also issued post dated cheques.

7. Though no role was played by the petitioner in this case, he was also implicated as accused in the complaint filed under Section 138 of NI Act. The Directors of the first accused company have settled the entire dues and all the complaints filed for the offence punishable under Section 138 NI Act was quashed by this Court in Crl.O.P.Nos.6408,6409 & 6410/2017 dated 27.10.2017 and Crl.O.P.Nos.25297 to 25300 /2016 dated 02.11.2017. Further, the petitioner, being the accountant of A1 company, was working for monthly salary and he has got nothing to do with the allegations alleged by the *de facto* complainant. Further, no one has spoken about the specific overt act alleged to be done by the petitioner and absolutely there is no material to implicate the petitioner as an accused for the charges under Section 406, 420 IPC r/w. 34 IPC. Therefore, the trial Court ought not to

have dismissed the petition for discharge filed by the petitioner. Further there is absolutely no possibility for conviction based on the materials available in this case against the petitioner.

8. In view of the above this Court finds infirmity in the order passed by the trial Court and the same cannot be sustained.

9. In the result, this Criminal Revision Case is allowed and the Order dated 23.10.2024 passed in Crl.M.P.No.4440 of 2024 in C.C.No.4302 of 2020 on the file of the Metropolitan Magistrate, Exclusively for Trial of CCB Cases (Cheating) Cases and CBCID Metro Cases, Egmore, Chennai, is hereby set aside and the petitioner is discharged from all charges in C.C.No.4302 of 2020 on the file of the Metropolitan Magistrate, Exclusively for Trial of CCB Cases (Cheating) Cases and CBCID Metro Cases, Egmore, Chennai.

10.07.2025

Index : Yes/No
Speaking/non-speaking order
bkn

To:

1. The Metropolitan Magistrate, Exclusively for Trial of CCB Cases (Cheating) Cases and CBCID Metro Cases, Egmore, Chennai.

2. The Sub-Inspector of Police,
EDF-II, Team-II, Vepery,
Chennai – 7.

3. The Public Prosecutor
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

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