IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.07.2025

Coram:

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.No.1180 of 2025 &
Crl.M.P.No.14324 of 2025

1. Diptendu Moitra
2. Debashri Moitra
3. Mrinal Kanti Sen ...Petitioners

Vs.

State rep. By
The Inspector of Police,
Central Crime Branch,
Egmore, Chennai ...Respondent

Prayer:

Criminal Revision filed under Sections 438 r/w 442 of BNSS to set aside the order dated 13.05.2025 passed by the learned Metropolitan Magistrate, CCB & CBCID Metropolitan Magistrate's Court, Egmore, Chennai in Crl.M.P.No.3342 of 2024 in C.C.No.2249 of 2017 in dismissing the petition.

For Petitioners : Mr.Ejaz Khan for
Mr.S.Marimuthu

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

O R D E R

This Criminal Revision has been preferred as against the order dated 13.05.2025 passed by the learned Metropolitan Magistrate, CCB & CBCID

Metropolitan Magistrate's Court, Egmore, Chennai in Crl.M.P.No.3342 of 2024 in C.C.No.2249 of 2017, thereby dismissing the petition filed under Section 239 of Cr.P.C., to discharge the petitioners from the case.

2. The case of the prosecution is that during the month of March and April 2010, at Chennai, the accused 1 to 3, in order to misappropriate the company fund, on 24.09.2009, A.1 received a purchase order no.NRIGR-487 for the supply of 'Oscilling Saw for cutting Mandible and maximal born-make Nauvag Germany' from M/s Pharma Stockist, Shillong. He passed the purchase order to Head office, the H.O. delivered the machine to Kolkata branch on 17.03.2010 vide Invoice No.Inv.09-10/438 for Rs.6,50,000/-. The accused/A.1 fraudulently prepared a bogus invoice No.09-10/A 366 dated 17.03.2010 in the name of 'South India Surgical Co." for the same machine, increasing the price amount as Rs.8,32,000/- and delivered to M/s Pharma Stockist, Shillong and illegally obtained a Axis Bank Cheque no.094187 for Rs.8,32,000 dated 02.04.2010 in the name of 'SISCO' and deposited the cheque in the fake account of South India Surgical Co, at SBI, Taratala Branch on 07.04.2010 and the amount was credited in the account. The accused/A.2 issued a cheque no.704749 for Rs.6,51,625/- for the purchase of D.D.No.206798 for Rs.6,50,000/- in favour of South India Surgical Co Ltd., Kolkata for the

original invoice amount and A.1 deposited the above said D.D.for Rs.6,50,000/- in the company account maintained at SBI, Beniapukur Branch on 13.04.2010 thereby A.1 to A.3 caused wrongful loss to the complainant, gained wrongfully to themselves and misappropriated a sum of Rs.1,82,000/- by preparing bogus invoice no.09-10/A 366. Thus the accused A.1 to A.3 appear to have committed an offence punishable under Sections 408, 467, 468, 471, r/w 120(B) IPC. After completion of investigation, final report was filed and the same was taken cognizance in C.C.No.2249 of 2017. While the case was pending at the stage of framing of charges, the petitioners, who are arrayed as A.1 to A.3 filed a petition under Section 401 of Cr.P.C., before the Hon'ble Supreme Court of India to transfer the FIR to Kolkata, State of West Bengal from Tamilnadu on the ground that there is no cause of action on the file of the respondent and the same was dismissed as withdrawn to raise the plea of preliminary objection before the trial court. Thereafter, the petitioners filed a petition under Section 239 of Cr.P.C., to discharge them from the case by raising preliminary objection on the ground of territorial jurisdiction of the trial court. The said case was dismissed, aggrieved by the same, the present Revision has been filed.

3. The learned counsel for the petitioners submits that the Hon'ble Supreme Court of India dismissed the transfer petition with liberty to raise objections before the trial court in respect of territorial jurisdiction of the trial court. The entire alleged occurrence had taken place in Kolkata and as such, the respondent absolutely has no jurisdiction to register any case, as such, the trial court has no jurisdiction to try any offence. Further, no cause of action of any alleged offence was committed within the jurisdication of the respondent herein. In fact, the respondent had examined the witnesses in Kolkata, wherein there are 17 witnesses out of which, 12 witnesses are from Kolkata and two witnesses are from Guwahati. Further, Section 177 of Cr.P.C., says that every offence shall ordinarily be enquired and tried by a Court within whose local jurisdiction it was committed. Further, the provisions under Sections 181 and 182 of Cr.P.C., are special provisions which specifically provides for the place of trial in case of certain offences and for offences committed by letters and as such, the trial court has no jurisdiction to try any offence as against the petitioners. Also, the alleged cheques were received at Kolkata and the deed of conveyance was executed at Kolkata, therefore, the trial court has no jurisdiction to try the case, thereby pleaded to allow the present revision.

4. Per contra, the learned Government Advocate (Crl.Side) would submit that there are clear materials as against the petitioners to attract the charges under Sections 408, 467, 468, 471 r/w 120(B) of IPC. All the witnesses have spoken about the overtact of the petitioners, therefore, the trial court rightly dismissed the petition to discharge the petitioners. Insofar as the jurisdiction is concerned, the petitioners have raised a ground of jurisdiction during the trial, therefore, it cannot be raised at the time of framing the charge, when the specific materials are very much available as against the petitioners to frame charges. Therefore, the trial court rightly dismised the petition, which does not warrant any interference by this Court, thereby pleaded to dismiss the Revision.

5. Heard the learned counsel on either side and perused the documents placed on record.

6. The petitioners, who are arrayed as A.1, A.2 and A.3 in C.C.No.2249 of 2017 are facing charges for offences punishable under Sections 408, 467, 468, 471 r/w 120B of IPC. Admittedly, the 1st petitioner is employed as Zonal Manager of the Defacto complainant's Branch Office at Kolkata. The 2nd petitioner, who is none other than the wife of the 1st petitioner and the 3rd petitioner, who is the father-in-law of the 1st petitioner, conspired together in order to cheat the defacto complainant, by diverting the cheque to false

account, misusing the incentive amount, prepared bogus invoice by misusing the Director's signatures by scanning, caused bogus letters for the diversion of customers and misapproriated to the tune of Rs.17,50,000/-

7. Further, on perusal of the statements from the witneses, there are certain averments and materials very much available as against the petitioners to frame charges under Sections 408, 467, 468, 471 r/w 120B of IPC. Even while pending FIR for investigation, the petitioners had approached the Hon'ble Supreme Court for transfer of FIR registered in Crime No.620 of 2010 on the file of the respondent to file of Kolkata, State of West Bengal in Transfer Petition (Crl.) No.291 of 2011. The Hon'ble Supreme Court by order dated 26.08.2011 dismissed the petition with liberty to raise preliminary objection before the trial court, therefore, the petitioners were given liberty to raise preliminary objection in respect of jurisdiction during the trial before the trial court. Though the petitioners have right to file an application to discharge them from charges, they cannot raise a preliminary objection with regard to territorial jurisdiction of the trial court by way of discharge petition.

8. As stated supra, specific materials and allegations are very much available as against the petitioners to frame charges for offences under Sections 408, 467, 468, 471 r/w 120B of IPC., therefore, the petitioners cannot be

discharged on the ground of territorial jurisdiction of the trial court. Further, some of the witnesses were examined at Chennai Head office. The Head office is very much situated in Chennai, within the jurisdiction of the respondent. The complainant's signature was forged by the petitioners and the petitioners fabricated some documents as if the complainant sent the same to them and by using the said fabricated document, therefore, part of the cause of action arose at Chennai and the complainant, whose signature was forged by the petitioners, is in head office at Chennai, therefore, the respondent has got jurisdiction to investigate and the trial court has got territorial jurisdiction to try the charges against the petitioners.

Accordingly, the trial court rightly dismissed the petition to discharge the petitioners from the case and this Court does not find any infirmity or illegality in the order passed by the trial court and the present Revision Petition fails and the same stands dismissed. Consequently, conneted miscellaneous petition is closed.

28.07.2025

Index : Yes / No
Internet : Yes / No
Speaking Order / Non Speaking Order
ssd

To

1. The Metropolitan Magistrate,
   CCB & CBCID Metropolitan Magistrate's Court,
   Egmore, Chennai

2. State rep. By
   The Inspector of Police,
   Central Crime Branch,
   Egmore, Chennai

3. The Public Prosecutor,
   High court, Madras

G.K.ILANTHIRAIYAN, J.

ssd

Crl.R.C.No.1180 of 2025

28.07.2025