



Crl.R.C.No.1181 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 28.07.2025

Coram:

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.No.1181 of 2025 &
Crl.M.P.No.14325 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.3376 of 2024 in C.C.No.2247 of 2017 in dismissing the petition.

For Petitioners

: Mr.Ejaz Khan for
Mr.S.Marimuthu

For Respondent

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

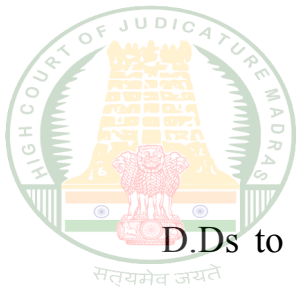
ORDER



Crl.R.C.No.1181 of 2025

WEB C 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.3376 of 2024 in C.C.No.2247 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 in pursuance of the criminal conspiracy in the course of same transaction between 14.10.2009 and 30.10.2009, the accused A.1 dishonestly and fraudulently, in order to misappropriate the South India Surgical Company Ltd., funds, make it gain unlawfully on the strength of forged letter, by circulating the bogus letter to the customer, mentioning that “issue our cheque/DD in the name South India Surgical Co, Kolkatta instead of South India Surgical Co Limited”. Believing this letter to be true, one of customer, Director of Medical Education Assam purchased medical equipments on 26.12.2007 for a sum of Rs.2,92,968/- vide Invoice No.Inv/7-08/366 and sent SBI Guwahati branch of DD.No.158444 dated 16.10.2009 for Rs.2,92,968/- to A.1. Similarly another customer of Principal, Guwahati Medical College & Hospital purchased medical equipments on 28.03.2009 for a sum of Rs.2,75,180/- vide invoice no.Inv/08-09791-A and after deducting the amount Rs.688/- sent a D.D.No.925947 dated 14.10.2009 for Rs.2,74,492/- to A.1. The accused A.1 handed over the two



CrI.R.C.No.1181 of 2025

D.Ds to A.2. A.2 deposited the DDs in the fake account of SISCO at SBI,

WEB.COM Taratala Branch. The accused A.2 issued two cheques, vide Nos.704741 and

704742 for a total amount of Rs.2,62,058/- in favour of SISCO Ltd., Chennai

for the supply of materials dated 26.12.2007 and 28.03.2009 vide Invoice

no.07-08/366 and 09-09/791A respectively and A.2, dishonestly and

fraudulently had withdrawn the remaining amount of Rs.3,05,402/- through

Cheque nos.704743 to 704750 from the parallel account of “South India

Surgical Co.” at SBI Taratala Branch and A.1 to A.3 misappropriated a total

sum of Rs.3,05,402/- shared the money between them illegally, thereby A.1 to

A.3 caused wrongful loss to the complainant, gained wrongfully to themselves

and misappropriated a sum of Rs.3,05,402/- by the fraudulent encashment of

cheque. 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.2247 of 2017. While the case was pending at the stage of

framing of charges, the petitioners, who are arrayed as A.1, A.2 and 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, agrieved 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 committed within the jurisdiction of the respondent herein. In fact, the respondent had examined the witnesses in kolkata, there are 17 witnesses out of which, 12 witnesses are from Kolkata and two witnesses are from Gauhati. 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



Crl.R.C.No.1181 of 2025

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 dismissed 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.

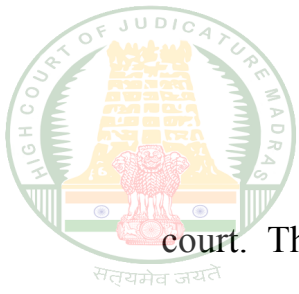
6. The petitioners, who are arrayed as A.1, A.2 and A.3 in C.C.No.2247



Crl.R.C.No.1181 of 2025

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 misappropriated to the tune of Rs.17,50,000/-.

8. Further, on perusal of the statements from the witnesses, 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



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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.

9. 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.

10. Therefore, 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



Crl.R.C.No.1181 of 2025

fails and the same stands dismissed. Consequently, conneted miscellaneous

WEB 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



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Crl.R.C.No.1181 of 2025

G.K.ILANTHIRAIYAN, J.

ssd

Crl.R.C.No.1181 of 2025

28.07.2025