



CrI.OP.No.24550 of 2024

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.24550 of 2024

and

CRL.MP.Nos.13830 and 13831 of 2024

Mohammed Yonus

... Petitioner

Vs.

P.Thangavel,
Managing Director,
Tinkas Industries Private Limited,
Formerly Origin ITFS Private Ltd.,
No.2/1, Dr.V.S.I Estate,
Dr.Rajiv Gandhi Salai, Thiruvananthapuram,
Chennai-600 041.
Rep by Power Agent,
R.Karthikeyan, S/o.Rammurthy

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, to call for the records and to quash the same in CC.No.85 of 2024 pending on the file of the Fast Track Judge (Magistrate Level) Alandur.

For Petitioner : Mr.R.Amardeep



CrI.OP.No.24550 of 2024

WEB COPY

For Respondent : No Appearance
(Notice Served)

ORDER

This petition has been filed to quash the proceedings in CC.No.85 of 2024 on the file of the learned Fast Track Judge (Magistrate Level) Alandur.

2. Though notice was served on the respondent and his name also printed in the cause-list, no one appeared before this Court either in person or through Advocate.

3. It is alleged that the respondent has been dealing with purchase and sale of fresh fruits and vegetables in the name of Origin ITFS Private Limited for the past twenty years. The first accused had purchased fruits on several occasions under different invoices. In order to settle the amount, the first accused who is the Proprietor of M/s.Sahara Fruits Traders had issued three cheques. Out of which, both the cheques were presented before the Bank for collection, both were returned as dishonoured, for the reasons "funds insufficient". After causing notice, the respondent has lodged a complaint.

4. Totally, there are two accused involved in this case. The



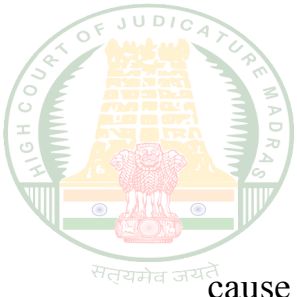
CrI.OP.No.24550 of 2024

WEB COPY

petitioner herein is the second accused in the complaint lodged by the respondent for the offence under Section 138 of Negotiable Instruments Act. Though the trial Court has taken cognizance as against two accused persons, the first accused was dropped from all the proceedings. The petitioner herein is none other than the father of the first accused. The cheques were issued in the capacity of Proprietorship concern and the first accused is the Proprietorship of Paalaivana Solai.

5. Admittedly, the first accused has only signed the cheques and issued in the capacity of Proprietorship of Paalaivana Solai in favour of the respondent herein. The petitioner being the father of the first accused, he has nothing to do with the presence of cheque and also the proprietorship concern.

6. That apart, Cheque's return memo issued to the respondent is dated 17.10.2022. However, the respondent has caused legal notice only on 19.11.2022 i.e., after a period of 30 days under Section 138(b) of Negotiable Instruments Act contemplated statutory notice should be caused within a period of 30 days from the date of receipt of information with regard to return of cheque as unpaid. Therefore, the respondent issued legal notice after a period of thirty days. Therefore, there is no



CrI.OP.No.24550 of 2024

WEB COPY

cause of action to take cognizance on the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act.

7. Considering the facts and circumstances of the case and the submission made by the learned counsel for the petitioner and also perused the material available on record, this Court is of the view that the complaint against the petitioner cannot be sustained and it is liable to be quashed.

8. Accordingly, the proceedings in CC.No.85 of 2024 on the file of the learned Fast Track Judge (Magistrate Level) Alandur, is hereby quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

20.03.2025

Vv

To

1. The Fast Track Judge (Magistrate Level) Alandur

4/6



CrI.OP.No.24550 of 2024

2. The Public Prosecutor,
Madras High Court,
Chennai.

G.K.ILANTHIRAIYAN, J.

Vv



WEB COPY



CrI.OP.No.24550 of 2024

CrI.O.P.No.24550 of 2024

20.03.2025