



CrI.O.P.No.25511 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2025

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.25511 of 2025

R.Hirendhar

...Petitioner

Vs.

N.Sreeram Mohan

...Respondent

Criminal Original Petition filed under Section 582 of Bharatiya Nagarik Suraksha Sanhita, (BNSS), 2023, to call for the records in STC.No.417 of 2025 on the file of the Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai.

For Petitioner : Mr.S.Sudhanthiran

For Respondent : Mr.A.R.Karthik Lakshmanan

ORDER

This criminal original petition has been filed seeking to quash the proceedings in STC.No.417 of 2025 on the file of the learned Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai.



2. The brief facts are as follows:

2.1 The petitioner is an accused facing trial in STC.No.417 of 2025 on the file of the learned Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai for the offence under Section 138 of the Negotiable Instruments Act, pursuant to the complaint made by the respondent/complainant under Section 223 of BNSS.

2.2 The allegation made by the respondent/complaint in the above said complaint is that that he had entered into a lease agreement with the 1st accused on 30.10.2018 in respect of an immovable property situated at No.12, 4th Floor, 2nd Main Road, CIT Nagar East, Chennai and he also paid a sum of Rs.27,00,000/- to the 1st accused towards lease amount, which is a refundable one as per the above said lease agreement and the said lease agreement was extended for a further period of 36 months, vide agreement dated 01.11.2021, despite which, the complainant was forced to vacate the subject premises on 24.11.2022, pursuant to which, when he approached the 1st accused, for repayment of refundable lease amount, the 1st accused agreed to repay the same on or before 20.06.2023 along with a sum of Rs.50,000/- towards the belated payment / mental agony caused to the complainant.



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2.3 However, the 1st accused failed to repay the amount and after several requests and reminders made by him, the 1st accused issued seven cheques bearing Nos.514706, 514707, 514708, 514710, 514711, 514712 and 514716, all dated 10.11.2024, pertaining to the joint bank account maintained by the 1st and 2nd accused at City Union Bank, Anna Salai Branch for sums of Rs.5,00,000/-, Rs.5,00,000/- Rs.5,00,000/-, Rs.5,00,000/-, Rs.5,00,000/-, Rs.3,50,000/- and Rs.1,50,000/- respectively towards discharge of the above liability.

2.4 However, on 15.11.2024, when the respondent/complainant presented the same for collection, the same were returned with the endorsement 'Funds insufficient'.

2.5 Immediately, the respondent/complainant issued a statutory notice dated 30.11.2024 to the accused. Upon receipt of the same, the accused, through their counsel, sent a reply on 15.11.2024, denying the above said liability and did not come forward to repay the amount. Aggrieved by the same, the respondent/complainant filed the above complaint in STC.No.417 of 2025.

3. Learned counsel for the petitioner submitted that the petitioner is arrayed as A2 in the above said complaint. He further submitted that other than being the son of the 1st accused and the joint account holder with him,



from which account, the above said cheques were said to have been issued to the respondent/complainant, there is no other allegation made against the petitioner herein. He also submitted that the petitioner is not a signatory to the said disputed cheques and he has no role to play in the above said transaction and he has been unnecessarily implicated in the case on the solitary ground that he is the son of the 1st accused, which is not sustainable and the same would be nothing but an abuse of process of law and therefore, he sought quashment of the impugned proceedings against him.

4. In support of his contention that the petitioner not being a drawer of the cheques cannot be prosecuted, the learned counsel garnered support from the decision of the Hon'ble Apex Court in ***Aparna A.Shah Vs. Sheth Developers Private Limited and Another [(2013) 8 SCC 71]***, wherein, the Hon'ble Apex Court has held as under:-

“22) In the light of the above discussion, we hold that under Section 138 of the Act, it is only the drawer of the cheque who can be prosecuted. In the case on hand, admittedly, the appellant is not a drawer of the cheque and she has not signed the same. A copy of the cheque was brought to our notice, though it contains name of the appellant and her husband, the fact remains that her husband alone put his signature. In addition to the same, a bare reading of the complaint as also the affidavit of examination-in- chief of the complainant and a bare look at the cheque would show that the appellant has not signed the cheque.



23) We also hold that under Section 138 of the N.I. Act, in case of issuance of cheque from joint accounts, a joint account holder cannot be prosecuted unless the cheque has been signed by each and every person who is a joint account holder. The said principle is an exception to Section 141 of the N.I. Act which would have no application in the case on hand. The proceedings filed under Section 138 cannot be used as an arm twisting tactics to recover the amount allegedly due from the appellant. It cannot be said that the complainant has no remedy against the appellant but certainly not under Section 138. The culpability attached to dishonour of a cheque can, in no case “except in case of Section 141 of the N.I. Act” be extended to those on whose behalf the cheque is issued. This Court reiterates that it is only the drawer of the cheque who can be made an accused in any proceeding under Section 138 of the Act. Even the High Court has specifically recorded the stand of the appellant that she was not the signatory of the cheque but rejected the contention that the amount was not due and payable by her solely on the ground that the trial is in progress. It is to be noted that only after issuance of process, a person can approach the High Court seeking quashing of the same on various grounds available to him. Accordingly, the High Court was clearly wrong in holding that the prayer of the appellant cannot even be considered. Further, the High Court itself has directed the Magistrate to carry out the process of admission/denial of documents. In such circumstances, it cannot be concluded that the trial is in advanced stage.”

(emphasis supplied)

4. Learned counsel for the respondent fairly submitted that the petitioner herein is not a signatory to the disputed cheques. However, he submitted that the 1st accused issued the disputed cheques only with an intent to cheat and defraud the respondent/complainant and that the said



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cheques issued pertain to the joint joint bank account maintained by the 1st and 2nd accused at City Union Bank, Anna Salai Branch and therefore, it cannot be held that the same were issued unbeknownst to the petitioner. Hence, by the above said act of dishonour of cheques, the petitioner herein, along with the 1st accused, had committed the offence punishable under Section 138 of the Negotiable Instruments Act.

5. Heard the learned counsel on either side and perused the materials available on record.

6. On a perusal of the materials available on record, it is seen that the petitioner herein who is arrayed as A2, is none other than the son of the 1st accused and it is not in dispute that the petitioner is not the signatory to the disputed cheques.

7. Further, the Hon'ble Apex Court in Aparna A.Shah (*supra*), relied on by the learned counsel for the petitioner has held in unequivocal and unambiguous terms that a joint account holder who is not a signatory to a cheque cannot be prosecuted under Section 138, *ibid*.



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8. In view of the above, the impugned proceedings in STC.No.417 of 2025 pending on the file of the learned Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai, is quashed in respect of the petitioner herein/A2 alone.

9. At this juncture, the learned counsel for the respondent/complainant submitted that this Court may issue a direction to the trial court to conclude the proceedings in STC.No.417 of 2025 as expeditiously as possible.

10. Acceding to the above submission made by the learned counsel for the respondent/complainant, this Court directs the learned Metropolitan Magistrate, Fast Track Court-II, Egmore at Allikulam, Chennai to conclude the trial proceedings in STC.No.417 of 2025 as expeditiously as possible, preferably within a period of six (6) months from the date of receipt of a copy of this order, as mandated under Section 143 of the Negotiable Instruments Act.

11. It is made clear that quashing the impugned proceedings in STC.No.417 of 2025 as against the petitioner will not absolve him of his civil liabilities.



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12. With the above directions and observation, this criminal original petition stands disposed of.

20.11.2025

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Neutral Citation: Yes/No

To:

The Metropolitan Magistrate, Fast Track Court-II,
Egmore at Allikulam, Chennai.



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A.D.JAGADISH CHANDIRA, J.

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