



Crl.O.P.No.4278 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 18.02.2025

CORAM:

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

Crl.O.P.No.4278 of 2025
and Crl.M.P.Nos.2685 and 2686 of 2025

1.M/s.Cedilla Brand Art LLP
represented by its Director
Mr.Feroz Pasha

2.Feroz Pasha
Director
M/s.Cedilla Brand Art LLP

3.Manoharan John Samuel
Director
M/s.Cedilla Brand Art LLP

... Petitioners

Vs.

D.Sureshkumar
Proprietor
M/s.Eyeda Brand Solutions
Door No.5F, 5th Floor, J.P.Tower
7/2, Nungambakkam High Road
Chennai 600 034

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in



Crl.O.P.No.4278 of 2025

connection with the S.T.C.No.5123 of 2024 on the file of Fast Track Judicial Magistrate Court-II, Egmore at Allikulam, Chennai and quash the same.

For Petitioner : Mr.K.Thiruvengadam

ORDER

This Criminal Original Petition is filed by the petitioner to call for the records in connection with the S.T.C.No.5123 of 2024 on the file of Fast Track Judicial Magistrate Court-II, Egmore at Allikulam, Chennai and quash the same.

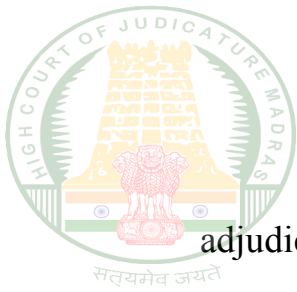
2. The petitioners are accused in STC.No.5123 of 2024 on the file of Fast Track Judicial Magistrate Court-II, Egmore at Allikulam, Chennai. A complaint was lodged by the respondent under section 138 of the Negotiable Instruments Act against the petitioners alleging that the accused used to place release orders to the respondent through their company M/s.Cedilla Brand Art Ltd, and after receipt of such relief orders, the respondent used to publish advertisement in Daily Newspapers and Radio. The respondent used to raise invoice and the same has to be settled within a period of 60 days as per the terms and conditions of the Memorandum of Understanding



Crl.O.P.No.4278 of 2025

entered between the petitioners and respondent, dated 06.07.2021 and 30.07.2021. While being so, the petitioners/accused failed to make payments for publishing advertisements and also not come forward to clear the outstanding amounts. In order to clear the outstanding liabilities, the petitioners issued a post dated cheque dated 25.08.2023 for a sum of Rs.59,81,927/- in favour of the complainant and when the same was presented for encashment on 21.11.2023, it was returned with an endorsement 'Funds Insufficient'. After causing legal notice, as contemplated under section 138 of Negotiable Instruments Act, since the petitioners neither repaid the amount, nor replied for the notice till date, the respondent has preferred a complaint against the petitioners under section 138 of Negotiable Instruments Act.

3. The learned counsel for the petitioners would submit that as per the Memorandum of Understanding, dated 06.07.2021, there is a specific clause that in case of any dispute arose between the parties, the parties have to initiate arbitration proceedings to resolve the disputes. He would further submit that accordingly if any dispute arose between the parties, it has to be



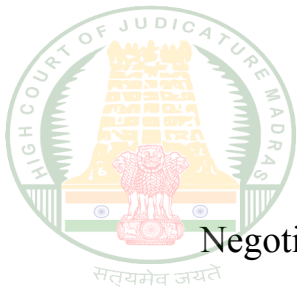
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adjudicated through the Arbitration Proceedings and hence the respondent ought not to have lodged compliant under section 138 of the Negotiable Instruments Act.

4. On a perusal of the specific clause to the Memorandum of Understanding dated 06.07.2021, under the head '*Arbitration of Disputes*', it is stated as follows:

'The sole remedy for the resolution of disputes between the parties to this agreement shall be arbitration before one arbitrator, in accordance with the THE ARBITRATION AND CONCILIATION ACT, 1996, such arbitration to be held in the Chennai City'.

5. It is seen that in the abovesaid clause, it is not referred that any dispute in respect of dishonour of cheque to be referred before the Arbitration for an amicable settlement. Admittedly, the petitioners issued a cheque in favour of the respondent and the same was dishonoured on account of insufficient funds in the account of the accused. That apart, in the MOU, there was no specific clause to refer this kind of issue before arbitration. Therefore it cannot be referred before the arbitration. In such view of the matter, it is a clear case of commission of offence under section 138 of



Crl.O.P.No.4278 of 2025

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Negotiable Instruments Act and hence, the petitioners are liable to be punished under section 138 of Negotiable Instruments Act. In view of the above, this court see no ground to quash the entire proceedings initiated under section 138 of Negotiable Instruments Act against the petitioners. The Criminal Original Petition is thus, dismissed. Consequently, the connected miscellaneous petitions are closed.

18.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
msr

To

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



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Crl.O.P.No.4278 of 2025

G.K.ILANTHIRAIYAN, J.

msr

Crl.O.P.No.4278 of 2025
and Crl.M.P.Nos.2685 and 2686 of 2025

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