



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2025

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

Crl.R.C.No.2186 of 2025 and

Crl.M.P.No.20129 of 2025

1. T.K. Santhosh

2. C. Sivaramakrishnan

... Petitioners

Vs.

S. Makesh

... Respondent

PRAYER : This petition is filed under Section 397(1) r/w 401 of Cr.Pc(438 r/w 442 of BNSS) to call for the records in Crl.M.P.No.2818 of 2025 in S.T.C.No.3949 of 2022 dated 23.09.2025 passed by the Metropolitan Magistrate FTC-IV at George Town, Chennai and set aside the same.

For Petitioner : Mr.K. Gandhi Kumar

For Respondent : S. Makesh, Party in person

ORDER

This Criminal Revision Case has been filed to call for the records in Crl.M.P.No.2818 of 2025 in S.T.C.No.3949 of 2022 dated 23.09.2025 passed by the Metropolitan Magistrate FTC-IV at George Town, Chennai and set aside the

1/6



same.

WEB COPY

2. The facts of the case is that in the year 2012 the complainant had booked a Flat E104 in ARCADIA project at Sholinganallur in the petitioner's company namely M/sRoyal Splendours Developers Private Limited. Due to some electric tower erection permission issues there was a delay in that project. In the mean time the said project was liquidated by the National Company law Board through the Resolution process by an order dated 04.12.2017 in CP/628/(IB)/CB/2017. It is pertinent to note that the complaint had made his claim with resolution professional and the same was admitted by the Resolution Professional, subsequently the Resolution professional presented the same before COC and later on approved by the National Company Law Board. Hence, to dig out the truth the petitioner filed a Crl.M.P.No.2818 of 2025 in S.T.C.No.3949 of 2022 u/s 277(2) of BNSS to recall of witness of one Mrs.M.Kavitha Suran, Insolvency profession and the same was dismissed on 23.09.2025 by the Metropolitan



WEB COPY

Magistrate FTC-IV at George Town, Chennai. Challenging the same the petitioner

has come up with this petition.

3. The learned counsel for the petitioner submits that the complainant cannot made dual claim one before NCLT and another before the Metropolitan Magistrate FTC-IC at George Town, Chennai by way of filing a complaint. Once the Tribunal has taken cognizance the concerned persons were seized as directors of the company namely M/s Royal Splendour Developers Private Limited. Hence, the complainant cannot filed the complaint under Section 138 of Negotiable Instrument Act. Hence, prays to allow this petition.

4. The learned counsel for the respondent submits that they have already filed a counter before the Court below stating the the Resolution professional no way connected to his case and instance case is filed under Section 138 of NI act is not related to the NCLT proceedings. Hence, prays to dismiss this petition.



WEB COPY

5. Heard both sides and perused the materials available on record

6. On a perusal of the records it is seen that the Finalcial Creditors have got 60% of the Principal amount. On going through the impugned order it is found that the learned Judge has dismissed the petition concluding that it is settled law that the nature of proceedings under two Namely NI act and IBC are quite, different and would not intercede each other, therefore there is no necessity to examine the Resolution professional Mrs. Kavitha Surama who is no way connected to this case. At the examination of said Kavitha Surana will not help to decide this case. This Court is of the view that the learned Judge has taken into consideration all aspects and passed the impugned order. Hence, there is no necessity to interfere with the same.

7. In view of the above facts, this Criminal Revision case is dismissed and the order passed by the Metropolitan Magistrate FTC-IV at George Town, Chenna in CrI.M.P.No.2818 of 2025 in S.T.C.No.3949 of 2022 on 23.09.2025 is



confirmed. Consequently the connected miscellaneous petition is closed.

WEB COPY

30.10.2025

smn

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

1. The Metropolitan Magistrate FTC-IV at George Town, Chennai

T.V.THAMILSELVI, J.

smn



WEB COPY



CrI.R.C.No.2186 of 2025

30.10.2025