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CRL RC No. 2126 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL RC No. 2126 of 2025

AND

CRL MP NO. 19771 OF 2025

1. T.K.Santhosh
S/o. T. Kuttappan, No.38, Sakthi
Avenue, Gerugambakkam,
Chennai-600121.

2. C. Sivaramakrishnan
S/O. Chandrasekaran, Flat No.2A,
T39/1 and B, Ranganatha Apartment,
16th Cross Street, Besant Nagar,
Chennai-600090.

Petitioner(s)

Vs

1. P.Muthusamy
S/o. Palanivel, No.255/123, Angappa
Naciken Street, Hussaina Manzil,
Goerge Town, Chennai-600 001.

Respondent(s)

PRAYER

To call for the records in Crl.M.P.No.2816 of 2025 in S.T.C.No.3948 of 2022 dated 23.09.2025 passed by the MM FTC-IV, at George Town, Chennai and set aside the same.

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For Petitioner(s): K.Gandhi Kumar
A. Nethra



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K. Shalini
S. Viswesh

For Respondent: Mr.P. Muthusam Party-in-Person

ORDER

This Criminal Revision Case has been filed to call for the records in CrI.M.P.No.2816 of 2025 in S.T.C.No.3948 of 2022 dated 23.09.2025 passed by the Metropolitan Magistrate, Fast Track Court - IV, at George Town, Chennai and set aside the same.

2. The petitioner has filed petition before the Trial Court seeking permission to examine the resolution professional namely kavitha Surana. Since the complainant made his claim with resolution professional and proceedings pending before NCLT. The respondent contested the case filed counter stated that the Resolution professional no way connected with the present case and the instance case is filed under Section 138 of N.I Act, which is not related to NCLT proceedings. Accordingly, the respondent prays to dismiss the petition. Considering the both sides submission, the Trial Court held that nature of proceedings under two act namely NI Act and IBC are quite different and would not intercede each other. Accordingly, it held that there is no necessity to examine the resolution professional Mr. Kavitha and dismissed the petition. Challenging the same, the petitioner filed this petition.

3. The learned counsel for the petitioner submits that the Trial Court failed to consider that the NCLT proceedings seized the matter in



CP/628/(IB)/CB/2017 on 04.12.2017 itself and passed an order by appointing one Arumugam as a interim Resolution Professional and subsequently, since he did not turn up, the NCLT Tribunal thereafter appointed one Kavitha Surana as a Resolution Professional. Further, on 04.12.2017 itself, the entire proceedings were over and the final order was passed on 23.12.2019. Further, the present STC no. 3948 of 2022 was initiated by the complainant only on 15.03.2018, hence, when the STC case was filed by the complainant the revision petitioners were seized to be director of the first accused company and their powers of directors were seized by the NCLT on 04.12.2017 itself i.e., when the cheque was presented by the complainant on 19.01.2018, so as per Apex Court judgement reported in 2025 INSC 346 (VISHNOO MITTAL Vs. M/S. SHAKTI TRADING COMPANY). Hence to prove the defence case the resolution professional Mr.Kavitha Suranan is a necessary witness to be examined before the Trial Court to show that the NCLT has seized the matter and passed the order on 04.12.2017 by appointing a Resolution Professional and also the complainant in the present case made a claim by making an application before the Resolution Professional. Hence, the Trial Court order is liable to be set aside.

4. Further, the Trial Court has failed to consider that on 04.12.2017 itself the revision petitioners did not have an power of directors of the company and did not have the capacity to fulfil the demand of the complainant in the present case. Since all the claims made by the creditors/corporate creditors made an



application for their respective claim before the resolution professional. Hence, all the documents are with the Resolution Professional Ms. Kavitha Surana.

Hence, she is an important witness to prove the defence case. So, without considering the importance of the witness and also the said resolution professional evidence is very much needed to just render justice. Hence, the Trial Court order is liable to be set aside. Further, the Trial Court has failed to consider that the complainant cannot make dual claim one before NCLT and another before the magistrate by filing complaint under Section 138 of NI Act. Hence, he prays to permit the petitioner to examine Resolution Professional Ms.kavitha Surana as defence witness.

5. The defacto complainant appeared person raised objection stating that on earlier occasion the petitioner filed similar nature of the application to examine NCLT professional in that application he was not a party. Hence, the said proceedings was dismissed by the Trial Court. In order to drag on the proceedings the petitioner filed another application with different prayer. Hence, he prays to dismiss this petition.

6. Considering the submissions on either side and also the fact reveals that respondent has initiated proceedings under Section 138 of Negotiable Instrument Act against the petitioner herein in STC no. 3948 of 2022 on the file of the Metropolitan Magistrate Fast Track Court-IV, at George Town, Chennai. At the argument stage, the petitioner/accused filed the application to examine Resolution Professional Ms. Kavitha Surana, as defence witness. The alleged



cheque was dishonoured on 09.01.2018 but the said resolution professional was appointed on 11.12.2019, which is after issuance of alleged cheque in dispute.

Furthermore, as rightly pointed out the Trial Court NI Act and IBC are quite different in nature. Even the resolution professional is not necessary to examine as defence witness as sought by the defacto complainant. In order to drag on the proceedings he filed the present application and the same should not be encouraged and the same was rightly appreciated by the Trial Court which needs no interference.

7. Accordingly, this petition is dismissed. Pending petition, if any, is closed.

27-10-2025

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

The Metropolitan Magistrate, Fast Track Court - IV, at George Town, Chennai.



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T.V.THAMILSELVI J.
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