



WEB COPY

CRL OP No. 4817 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

**CRL OP No. 4817 of 2026
and Crl.M.P.Nos.3453 & 3456 of 2026**

1. M/s. XL Industries
Represented it Proprietor Swapna Roy,
XL/420,
Cheeriyakadavu,
Kochi 682 008.
2. Sanumon Kasim
S/o.Kasim U.K,
Uthinattu House,
Thenkode Oonnukkal P.O.,
Kuttamangalam,
Ernakulam - 686 693
3. Lesile John Peter
S/o.P.P.Xavier,
28/2554, M Golden Waters,
Chilavannur,
Kadavanthara,
Ernakulam - 682 020.
4. Swapna Leslie @ Swapna Roy
W/o.Leslie John Peter,
28/2554, M Golden Waters,
Chilavannur,
Kadavanthara,
Ernakulam 682 020.

..Petitioner(s)

Vs



M.Parthasarathy
S/o.Muthusamy,
13, Sathy Cross No. 2,
OPP. G.P.Hospital,
Gandhipuram,
Coimbatore -12.

..Respondent(s)

Criminal Original Petition is filed under Section 528 of BNSS to call for the records in C.C.No. 845/2016 pending on the file of the Judicial Magistrate No.II, Coimbatore and to quash the same as far as the petitioners are concerned and thus render justice.

For Petitioner(s): K.Balasubramaniam

For Respondent(s): K.Sasindran

ORDER

The petitioner / accused who is facing trial in C.C.No.845/2016 on the file of the Judicial Magistrate No.II, Coimbatore, for the offence under Section 138 of the Negotiable Instruments Act, had filed this quash petition.

2. The primary ground raised by the petitioner is that the cheque has been signed by the third petitioner / A3 in his individual capacity. But unnecessarily, A1, A2 and A4 have been implicated as though projecting that A1 company had issued the cheque, A2 entered into MOU and A4 is the wife of A3. Thus all the



four has been arrayed as accused. The petitioners have also produced the Commercial Tax receipt confirming that the first petitioner is a proprietorship concern and the fourth petitioner is its proprietrix. Hence, the cheque which has been issued by A3 in his individual capacity is now being projected and all the accused are facing trial.

3. The learned counsel for the respondent submitted that the case is of the year 2016 and it has been 10 years now and the petitioners are not allowing the case to move further by filing one petition or the other and further even in the initial stage, summons could not be served that easily to the petitioner and with great difficulty, summon served. The petitioners, 2 to 4 had approached the complainant representing the first petitioner company and received money to supply goods but, failed to do so. He further submitted that there was also a negotiation among the parties and a Memorandum of Understanding was entered and thereafter only cheque issued.

4. Though all the three accused participated in the aforesaid activities, they have tactically restricted the signing of documents at their convenience and later projected as though it is an independent act of each other, on the facts of the case it is not so. Further, the petitioners are questioning the signature. These facts are all disputed facts which can be decided during trial. In view of the same, this Court is not inclined to allow this petition.



5. Accordingly, this Criminal Original Petition is dismissed. The observations made herein are only for the limited purpose of disposing this case. The trial Court shall proceed on its own merits and dispose of the case in C.C.No.845/2016. Connected miscellaneous petitions are closed.

26-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To:

The Judicial Magistrate – II, Coimbatore.

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CRL OP No. 4817 of 2





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CRL OP No. 4817 of 2



M.NIRMAL KUMAR, J.

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