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CRL OP No. 21587 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

**CRL OP No. 21587 of 2023 and
CRL MP Nos. 14918 and 14919 of 2023**

R.A.A.S.Arun
S/o. R.A.Asubashchandrian, Aisa Deer Park
Apartment, 2nd Floor, No.108, Velacherry Main
Road, Guindy, Chennai - 600 002.

..Petitioner(s)

Vs

V.Venkatesh @ Venkatesan
S/o. Vishvanathan, No.1/1, Mettu Street,
Seeneerkuppam Village, Thiruvallur District.

..Respondent(s)

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the entire records in STC.No.997 of 2022 on the file of Hon'ble Fast Track Court Magistrate Level at Poonamallee and quash the same as against the petitioner

For Petitioner(s): Mr.K.G.Senthilkumar for
Mr.D.Senthil Kumar

For Respondent(s): Mr.A.Saranraj

ORDER

This Criminal Original Petition has been filed to quash the proceedings in STC.No.997 of 2022 on the file of the Fast Track Court Magistrate Level, Poonamallee.



2. The petitioner is the accused in the complaint lodged by the respondent for an offence under Section 138 of the Negotiable Instruments Act. The complaint was lodged by the respondent alleging that the petitioner had borrowed a sum of Rs.4,00,000/- from the respondent during January, 2022 to run his real estate business on condition to repay the said sum together with interest at the rate of 24% per annum and in order to repay the said amount, the accused issued cheques and when the same were presented for collection, they were dishonoured for the reason 'Account closed'. After issuance of notice, a complaint was lodged by the respondent against the petitioner under Negotiable Instruments Act and the same has been taken cognizance by the trial Court on file in STC No.998 of 2022.

3. The learned counsel appearing for the petitioner would submit that the alleged cheque was issued by the partnership firm, however, the respondent failed to implead the partnership firm and other partners as accused. In fact, the respondent failed to cause any notice against partnership firm and other partners of the said firm and therefore, the complaint is not maintainable and liable to be quashed.

4. Per contra, the learned counsel appearing for the respondent would submit that though the petitioner issued the cheque in the name of the



partnership firm, the respondent did not know about the details of the partnership firm and other partners. The petitioner, who is the Managing Director of the partnership firm had signed the cheque, therefore the respondent initiated proceedings as against the petitioner and the complaint is very much maintainable, thereby pleaded to allow the present petition.

5. Heard the learned counsel appearing on either side and perused the documents placed on record.

6. Perusal of the records reveals that the cheque, issued by the partnership firm, viz., Aruna Timber Depot, in fact, was signed by the Partner / Authorised Signatory, however, the respondent did not cause any statutory notice to the partnership firm and other partners. Further, in order to attract an offence under Section 141 of Negotiable Instruments Act, unless the partnership firm has committed the offence, as the principal accused, the other accused would not be responsible and convicted as vicariously liable. The provisions of Section 141 of the Negotiable Instruments Act, extends vicarious criminal liability to officers associated with the company or firm when one of the twin requirements of Section 141 of the Negotiable Instruments Act has been satisfied, then by deeming fiction, is made vicariously liable and punished. Therefore, the complaint itself is not maintainable.



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In view of the above, the entire proceedings initiated under Sections 138 and 141 of the Negotiable Instruments Act cannot be sustained and liable to be quashed. Accordingly, the present Criminal Original Petition is allowed and the entire proceedings in STC No.997 of 2022 on the file of the Fast Track Court Magistrate Level at Poonamallee is quashed. Consequently, connected miscellaneous petition are closed.

21-04-2026

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

ssd

To

Fast Track Court Magistrate Level at Poonamallee



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G.K.ILANTHIRAIYAN J.

ssd

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