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CrI.O.P.No.29342 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2026

CORAM:

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

CrI.O.P.No.29342 of 2022 and
CrI.MP.Nos.17943 & 17945 of 2022

R.THIRUVENGADA RAMANUJA DOSS

... Petitioner

Vs.

M/S.SUNIL AND CO,
PROPRIETOR, SUNIL KUMAR BAGMAR, REP BY ITS
POWER AGENT, MAHENDRA KUMAR BAGMAR
NO.40, GENERAL MUTHIAH STREET, SOWCARPET,
CHENNAI 600 079

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C.
praying to call for the records relating to the proceedings in STC.696 of
2021 on the file of the Metropolitan Magistrate, FTC.No.4, George Town,
Chennai and quash the same.

For Petitioner : Mr.P.Raja

For Respondent : Mr.M.Arunachalakani

ORDER

This criminal original petition has been filed praying to
quash the proceedings in STC.696 of 2021 on the file of the Metropolitan
Magistrate, FTC.No.4, George Town, Chennai.



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2. The petitioner is the accused in the complaint lodged by the respondent for the offence punishable under Section 138 of NI Act on the allegation that the petitioner is the correspondent of the college i.e. M/s.Sri Vidya College of Engineering and Technology, hereinafter referred to as the said College, and the said College approached the respondent for financial assistance and the same was granted by way of hire purchasing of already owned vehicle bearing Regn.No.TN-67-H-9734, Leyland Bus of 2008 model. The respondent assured to finance a sum of Rs.4,00,000/- to the said vehicle, for which the said College and the respondent entered into a Hire-purchase agreement, dated 19.01.2020 and the total liability was a sum of Rs.4,75,000/- which had to be repaid in 18 monthly instalments. But the entire loan amount was not paid. At the time of execution of the said Hire-purchase agreement, the petitioner parted with his personal blank but signed cheque No.698919 on 19.01.2020 drawn on M/s.Indian Bank, Virudhunagar Branch, P.B.No.21-176, as a security for the future amounts to be paid. The college paid 2 instalments, of Rs.62,000/-and thereafter, due to Covid-19 pandemic situation, they could not pay the balance amount. However, the respondent, taking advantage of the situation of the petitioner, filled up date as 20.09.2021 and amount as Rs.5,03,220/- in the said cheque No.698919 and presented the said cheque in his bank, M/s. Union Bank

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of India, Mint Street Branch, Chennai-3 on 20.09.2021, and the same had been returned on 21.09.2021 with an endorsement, "Kindly contact Drawer Drawee Bank and please present again". Therefore, the respondent caused notice under Section 138 of NI Act and lodged complaint to initiate proceedings under Section 138 of NI Act. Thereafter, the trial court took cognizance of the same in STC.No.696 of 2021 for the offence punishable under Section 138 of NI Act.

3. Heard, the learned counsel appearing on either side and perused the materials available on record.

4. The learned counsel appearing for the petitioner raised the following grounds:

(i) cheque was returned for the reason 'kindly contact drawer drawee bank and please present again'

(ii) it is only civil transaction between the trust and the respondent and as such the complaint under Section 138 of NI Act is not maintainable.

5. Insofar as the first ground, the Hon'ble Supreme Court of India held in the case of ***Kishore Sharma Vs. Sachin Dubey in***



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Crl.A.No.1326 of 2019 dated 03.09.2019 that the points raised by the petitioner therein had to be decided during trial. The defence taken by the petitioner therein had to be tested by appreciating the evidence during the trial. Since the cheque was returned for the reason 'kindly contact drawer drawee bank and please present again', there are so many reasons to issue direction to contact drawer drawee bank. It has to be elicited only by cross examination. As such, on this ground, the entire complaint cannot be quashed. As such, this criminal original petition is liable to be dismissed.

6. However, the trial court is directed to complete the trial within a period of six months from the date of receipt of this order. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the age of the petitioner, the personal appearance of the petitioner before the trial court is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment.



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7. In the result, this criminal original petition stands dismissed.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

1.Metropolitan Magistrate, FTC.No.4, George Town, Chennai

2.M/S.SUNIL AND CO,
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