



Crl.O.P.Nos.34888 of 2025 & 4018 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.34888 of 2025 & 4018 of 2026

and

Crl.M.P.No.24484 of 2025

Crl.O.P.No.34888 of 2025:-

Sunshine Trading Co.
Represented by Sole Proprietor Sharukh Malik (M/25),
S/o.Mohaamed Rahis,
Sunshine Trading Co.
Near Pasonda BusStand, Pasonda
Sahibabad, Ghaziabad Taluk,
Uttar Pradesh.

.. Petitioner

Vs.

N.P.Vikram Prakash,
S/o.Perumal Chettiyar,
17/13 Perichi Lane, Virudhachalam,
Cuddalore, Tamil Nadu – 606 001.

.. Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C/528 of BNSS, praying to set aside the order dated 01.12.2025 passed by the learned Additional Sessions Judge at Allikulam, Chennai, in Crl.M.P.No.1 of 2025 in C.A.No.1443 of 2025 in STC.No.547 of 2025.

For Petitioner : M/s.Sakshi Goyal

For Respondent : Mr.G.D.Sendillveal



Crl.O.P.Nos.34888 of 2025 & 4018 of 2026

Crl.O.P.No.4018 of 2026:-

Vikramprakash, M/A-46,
S/o.Perumal Chettiyar,
17/13, Perichi Lane,
Vridhachalam Town and Taluk,
Cuddalore District.

.. Petitioner

Vs.

1.The City Commissioner,
O/o.The Commissioner of Police,
Vepery, Chennai – 600 007.

2.The Senior Superintendent of Police,
Office of the Senior Superintendent of Police,
Ghaziabad, Raj Nagar District,
Uttra Pradesh – 201 002.

3.The Inspector of Police,
G-2, Periamet Police Station,
Chennai – 600 007.

4.Sunsine Trading Co.,
Represented by its sole proprietor Shahrulkmalik (age.25),
S/o.Mohamed Rahis,
Sunshine Trading Co.,
Near Pasonda Bus stand,
Pasonda, Sahibabad, Ghaziabad Taluk,
Uttar Pradesh – 201 005.

.. Respondents

Prayer: Criminal Original Petition filed under Section 528 of BNSS, praying to issue a direction directing the 1st respondent Commissioner of Police, Vepery, Chennai form a Special Team of Police men for execute conviction warrant in S.C.T.No.547 of 2025, dated 02.02.2026 issued by Metropolitan Magistrate – Fast Tract Court – I, Allikulam, Egmore, Chennai against the accused 4th respondent herein Sharuk Malik, S/o.Mohammed Rahis Sunshine & Trading Co., Near Pasonda, Next Bus



Crl.O.P.Nos.34888 of 2025 & 4018 of 2026

Stand, Sahibabad, Ghaziabad Taluk, Uttar Pradesh – 201 005 with the assistance of the 2nd respondent and stipulated time same fixed by this Court.

For Petitioner : Mr.R.Sankarasubbu
For RR 1 to 3 : Mr.Leonard Arul Joseph Selvam
Additional Public Prosecutor

COMMON ORDER

Crl.O.P.No.34888 of 2025 has been filed to set aside the order dated 01.12.2025 passed by the learned Additional Sessions Judge at Allikulam, Chennai, in Crl.M.P.No.1 of 2025 in C.A.No.1443 of 2025 in STC.No.547 of 2025.

2.Crl.O.P.No.4018 of 2026 has been filed for a direction to the 1st respondent / Commissioner of Police, Vepery, Chennai, to form a Special Team of Police men for execute conviction warrant in S.C.T.No.547 of 2025, dated 02.02.2026 issued by Metropolitan Magistrate – Fast Tract Court – I, Allikulam, Egmore, Chennai against the accused 4th respondent herein Sharuk Malik, S/o.Mohammed Rahis Sunshine & Trading Co., Near Pasonda, Next Bus Stand, Sahibabad, Ghaziabad Taluk, Uttar Pradesh – 201 005 with the assistance of the 2nd respondent and stipulated time frame fixed by this Court.



Crl.O.P.Nos.34888 of 2025 & 4018 of 2026

3.As the issues involved in both the cases are connected to each other, they are disposed of by this common order. The parties shall be referred to as per their rank in Crl.O.P.No.4018 of 2026.

4.The 4th respondent is an accused in a case registered under Section 138 of the Negotiable Instruments Act, 1881, filed by the respondent police. The XXXIV Metropolitan Magistrate, Fast Track Court No.I at Magisterial Level, Egmore at Allikulam, Chennai, in STC.No.547 of 2025, finds the 4th respondent / accused guilty and convicted him by the judgment dated 04.11.2025. The 4th respondent / accused on the date of the judgment was not present and hence, the judgment was rendered in his absence. Thereafter, the 4th respondent / accused preferred an appeal in C.A.No.1443 of 2025 before XXI Additional Sessions Judge, Allikulam, Chennai, and filed a suspension of sentence petition in Crl.M.P.No.1 of 2025. The Appellate Court admitted the appeal, but not entertained the suspension of sentence petition, for the reason that, since the 4th respondent / accused had not appeared before the Trial Court on the date of judgment. Therefore, the Appellate Court directed the 4th respondent / accused to surrender before the Trial Court and thereafter move a suspension of sentence petition before this Court. Challenging the same, these two petitions have been filed.



Crl.O.P.Nos.34888 of 2025 & 4018 of 2026

5.From the available materials, it is seen that the 4th respondent / accused has been convicted by the Trial Court by the judgment dated 04.11.2025, wherein the 4th respondent / accused was convicted and sentenced to undergo simple imprisonment for six months and to pay compensation of Rs.2,45,70,000/- to the complainant within 30 days from the date of the judgment, in default to undergo simple imprisonment for one month.

6.The contention of the 4th respondent / accused is that, once the Trial Court had rendered the judgment, it becomes *functus officio* and thereafter no orders can be passed. In view of the above, the Sessions Judge directing the accused to go and surrender and re-call non bailable warrant before the Trial Court would not arise. Hence, the impugned order to be set aside. The suspension of sentence petition in Crl.M.P.No.1 of 2025 under Section 389(1) of Cr.P.C. to be entertained.

7.The counsel for the petitioner / complainant submitted that despite conviction by the Trial Court, the 4th respondent / accused neither paid the compensation amount nor obtained any suspension. Hence, he had filed a petition in Crl.O.P.No.4018 of 2026, seeking for direction directing the respondent / Commissioner to form a special team of police



CrI.O.P.Nos.34888 of 2025 & 4018 of 2026

men to execute conviction warrant in S.C.T.No.547 of 2025 dated 02.02.2026.

8.The Additional Public Prosecutor submitted that since the accused is a resident of Ghaziabad, Uttar Pradesh, the warrant can be appropriately addressed as per Section 70 of BNSS.

9.Heard the submissions of both sides.

10.Considering the submission and perusal of records, this Court finds that the Sessions Judge directing the 4th respondent / accused to get surrendered before the Trial Court and thereafter to file suspension of sentence petition before the Sessions Court is not proper. Section 389(1) of Cr.P.C. is an independent Section and it is not binding on any Section. Section 389(3) is for the suspension of sentence by the Trial Court till the time of appeal.

11.In this case, the 4th respondent / accused was convicted by the XXXIV Metropolitan Magistrate (Fast Track Court No.I), Magisterial Level, Egmore at Allikulam, Chennai and the appeal had been filed in C.A.No.1443 of 2025 before the XXI Additional Sessions Court at



Crl.O.P.Nos.34888 of 2025 & 4018 of 2026

Allikulam, Chennai, wherein he has filed suspension of sentence petition in Crl.M.P.No.1 of 2025. Hence, the order in Crl.M.P.No.1 of 2025 dated 01.12.2025 directing the 4th respondent / accused to get surrendered before the Trial Court is not proper and hence, set aside.

12.The counsel for the 4th respondent / accused submitted that the appeal is posted for hearing on 09.04.2026. Therefore, on 09.04.2026 or any day before 09.04.2026, the 4th respondent / accused shall appear before the Sessions Court, namely the XXI Additional Sessions Judge, Allikulam, Chennai, and file a suspension of sentence petition under Section 389(1) of Cr.P.C. The Trial Court to consider the suspension of sentence petition independently on its own merits and pass appropriate orders.

13.With the above directions, both the Criminal Original Petitions are dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

26.03.2026

krk
Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



WEB COPY



Crl.O.P.Nos.34888 of 2025 & 4018 of 2026

M.NIRMAL KUMAR, J.

krk

To

1.The City Commissioner,
O/o.The Commissioner of Police,
Vepery, Chennai – 600 007.

2.The Senior Superintendent of Police,
Office of the Senior Superintendent of Police,
Ghaziabad, Raj Nagar District,
Uttra Pradesh – 201 002.

3.The Inspector of Police,
G-2, Periamet Police Station,
Chennai – 600 007.

4.The XXI Additional Sessions Judge,
Additional Sessions Court at Allikulam, Chennai.

5.The XXXIV Metropolitan Magistrate – Fast Tract Court – I,
Allikulam, Egmore, Chennai.

6.The Public Prosecutor,
High Court of Madras, Chennai.

Crl.O.P.Nos.34888 of 2025 & 4018 of 2026 and
Crl.M.P.No.24484 of 2025

26.03.2026