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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2026

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6855 of 2026
and
Crl.M.P.Nos.4987 and 9895 of 2026

A.Ramamurthy

... Petitioner

Vs.

A.Inbasekar,
S/o.Arumugam

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and to quash the complaint in S.T.C.No.1803 of 2026 pending on the file of the Metropolitan Magistrate, Fast Track Court, Allikulam, Egmore at Chennai.

For Petitioner : Mr.E.Omprakash
Senior Counsel
for Mr.N.Senthilkumar

For Respondent : Mr.P.Chandrasekar

ORDER

This Criminal Original Petition has been filed, to quash the proceedings in S.T.C.No.1803 of 2026 on the file of the learned Metropolitan Magistrate, Fast Track Court, Allikulam, Egmore, Chennai.



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2. The Petitioner is an accused in the complaint lodged by the Respondent for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, alleging that the Accused borrowed a sum of Rs.1,00,00,000/- on various occasions till 2023.

3. The entire loan amount was disbursed to the Accused through Bank Transactions on various occasions. The Accused assured the Respondent that he will repay the said amount after completion of construction of resort in Yelagiri.

4. In order to partially discharge his liabilities, the Accused issued a cheque for a sum of Rs.1,00,00,000/- to be presented for collection which was returned with the reason “funds insufficient”. After receipt of the Statutory Notice, the Respondent lodged the complaint and the same has been taken cognizance by the Trial Court.

5. Mr.E.Omprakash, the learned Senior Counsel for the Petitioner submits that the Complaint is not sustainable on the following three grounds:



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(i) The Respondent suppressed several facts while filing the complaint.

(ii) The Respondent falsely averred in the complaint that after receipt of statutory notice, the Accused did not issue any reply notice. In fact, the Accused issued reply notice for which the Respondent also issued rejoinder.

(iii) The Cheque was issued for security purpose at the time of borrowing the loan. Even after repayment of the entire loan amount, the Respondent deposited the same for collection.

6. In support of his contention, the learned Senior Counsel relied upon the Judgment of the Hon'ble Supreme Court of India in **Rekha Sharad Ushir Vs. Saptashrungi Mahila Nagari Sahkari Patsansta Limited**, (2025) 3 MLJ (Crl) 52 (SC), in which the Hon'ble Supreme Court of India held as follows:-

“9. A court of the Judicial Magistrate can take cognizance of an offence punishable under Section 138 of the NI Act based on a complaint filed under Section 200 of the Criminal Procedure Code, 1973 (for short, ‘the CrPC’). The corresponding provision under the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short, ‘the BNSS’) is Section 223. After a complaint is filed under Section 200 of the CrPC, the learned Magistrate is duty-bound to examine the complainant on oath and witnesses, if any, present and reduce the substance of such examination into writing. What is reduced into writing is required to be signed by the complainant and witnesses, if any.

10. Recording the complainant's statement on oath under Section 200 of the CrPC is not an empty formality. The object



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of recording the complainant's statement and witnesses, if any, is to ascertain the truth. The learned Magistrate is duty-bound to put questions to the complainant to elicit the truth. The examination is necessary to enable the Court to satisfy itself whether there are sufficient grounds to proceed against the accused. After considering the complaint, the documents produced along with the complaint, and the statements of the complainant and witnesses, if any, the learned Magistrate has to apply his mind to ascertain whether there is sufficient ground for proceeding against the accused. If he is satisfied that there is sufficient ground to proceed against the accused, then the learned Magistrate has to issue a process in terms of sub-Section (1) of Section 204 of the CrPC. The corresponding provision under the BNSS is Section 227. Setting criminal law in motion is a serious matter. The accused faces serious consequences in the sense that he has to defend himself in the trial.

11. It is settled law that a litigant who, while filing proceedings in the court, suppresses material facts or makes a false statement, cannot seek justice from the court. The facts suppressed must be material and relevant to the controversy, which may have a bearing on the decision making. Cases of those litigants who have no regard for the truth and those who indulge in suppressing material facts need to be thrown out of the court. In paragraph 5 of the decision of this Court in the case of S.P. Chengalvaraya Naidu v. Jagannath, it is held thus:

“5. The High Court, in our view, fell into patent error. The short question before the High Court was whether in the facts and circumstances of this case, Jagannath obtained the preliminary decree by playing fraud on the court. The High Court, however, went haywire and made observations which are wholly perverse. We do not agree with the High Court that “there is no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence”. The principle of “finality of litigation” cannot be pressed to the extent of such an absurdity that it becomes an



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*engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, taxevaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. **We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation.***

(emphasis added)

12. Section 138 of the NI Act has three conditions incorporated in clauses (a) to (c) of the proviso. Firstly, the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier. Secondly, if a cheque is returned by the bank unpaid, the payee or the holder in due course must make a demand for payment of the amount of money covered by the cheque by issuing a notice in writing within 30 days of receipt of information from the bank regarding the return of the cheque as unpaid. The third condition is that the drawer of the cheque must fail to make payment of the amount covered by the cheque within 15 days of the receipt of the notice.

13.

14.

15. It is pertinent to note that in the counter to the present appeal, the respondent has not denied the receipt of the letters dated 28th November 2016 and 13th December 2016. The complaint and affidavit in support of the complaint only refer to the notice dated 15th November 2016 issued by the advocate for the appellant to the respondent. What is stated in the complaint reads thus:

“



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[D] The notice sent on the first address has been received on 15.11.2016. However, from the second address, envelope has been returned on 15.11.2016 with the postal remark as 'left'."

However, the respondent suppressed the letters dated 28th November 2016 and 13th December 2016 in the complaint and its statement on oath. Now, by filing an additional affidavit, it is contended by the respondent that certain documents were supplied to the appellant. A copy of the application dated 29th November 2016, submitted by the appellant to the respondent's manager, is placed on record seeking loan account statements. Accordingly, certain account statements bearing the appellant's signature have been produced. The signatures on the account statements do not bear any date.

16. It is pertinent to note that in the notice under Section 138 of the NI Act, in paragraph 1, the respondent specifically relied upon documents executed by the appellant and the acknowledgment of the loan made by the appellant. By a reply dated 28th November 2016, the appellant informed the respondent that by filing a written application, the appellant had demanded certain documents, which had not been provided. What is pertinent to note is that the respondent does not deny the receipt of the reply dated 28th November 2016. No reply was sent by the respondent pointing out that the documents were supplied. Even in the letter dated 13th December 2016, the appellant made the same grievance regarding the non-supply of the documents relied upon in the demand notice. Before filing the complaint, the respondent failed to respond to the said letter.

17.

18.

19. If these two letters were disclosed in the complaint, the learned Magistrate while recording the statement under Section 200 of CrPC, could have always questioned the respondent on the supply of documents to the appellant. What is important is that in the reply dated 28th November 2016, the



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appellant had reserved her right to give a reply to the demand notice after receiving the documents. It was the respondent's duty to supply documents to the appellant or her advocate to enable the appellant to properly reply to the demand notice. At least, the inspection of documents could have been provided to the appellant. After noticing the fact that notwithstanding service of two letters written by the appellant, relied upon documents were not provided to the appellant, the learned Magistrate could have dismissed the complaint by exercising power under Section 203 of CrPC, as the appellant could not have replied to the statutory notice without looking at the documents relied upon.

20. Thus, this was a case where very material documents in the form of two letters addressed by the appellant were suppressed in the complaint and the statement on oath under Section 200. In the statement on oath, the respondent-complainant vaguely referred to a 'false notice reply', but a copy of the reply was not produced by the respondent along with the complaint."

7. On perusal of the records and also on the submissions made by the learned Senior Counsel for the Petitioner, it is revealed that the Respondent averred in the Complaint that, after receipt of Statutory Notice, the Accused never came forward to settle the above said amount and also failed to reply to the Legal Notice. However, the Respondent lodged the complaint annexing the Reply Notice issued by the Accused as Doc.No.5 and also the Rejoinder issued by the Respondent as Doc.No.6.



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8. The Accused conveniently omitted the last page of the complaint while filing this Criminal Original Petition initially, and obtained order of interim stay on the ground that the Respondent suppressed the Reply Notice and the Rejoinder.

9. Though the Respondent averred in his Complaint that the Accused did not file Reply Notice, it would not cause any prejudice to the Accused since the Respondent annexed the Reply Notice sent by the Accused and the Rejoinder sent by the Respondent. Hence, the Respondent did not suppress any of the fact.

10. Likewise, in the Vacate Stay Petition, the Respondent had stated some calculations in order to substantiate that the Cheque was issued for partial discharge of the liability.

11. Though the said averments were not stated in the complaint, it is only a summary procedure and as such, the Respondent can very well produce the documents and other information during the trial.



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12. Further, even assuming that the said Cheque was issued for security purpose at the time of borrowing the loan, there was a liability for the said amount by the Accused on the date of presentation of Cheque.

13. Therefore, the Judgment relied by the learned Senior Counsel for the Petitioner is not applicable to the facts of the case on hand.

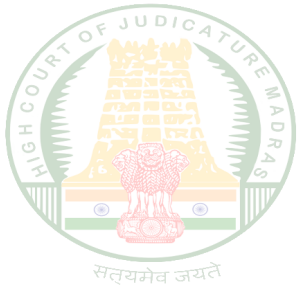
14. In view of the above, this Court finds no ground to quash the proceedings in S.T.C.No.1803 of 2026 on the file of the learned Metropolitan Magistrate, Fast Track Court, Allikulam, Egmore, Chennai.

15. This Criminal Original Petition is accordingly dismissed.
Connected Criminal Miscellaneous Petitions are closed.

14.08.2026

Neutral Citation: Yes / No

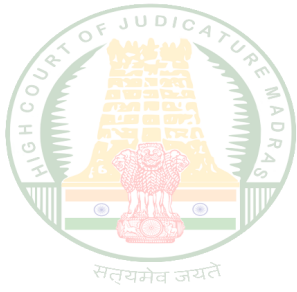
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To:

- 1.The Metropolitan Magistrate,
Fast Track Court, Allikulam,
Egmore, Chennai.
- 2.The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



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Case Citation: (2026) ibclaw.in 4808 HC



Crl.O.P.No.6855 of 2026

G.K.ILANTHIRAIYAN, J.

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