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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 24.09.2026

ORDER PRONOUNCED ON : 07.10.2026

CORAM

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

CRL OP(MD) NO. 15598 of 2026
{CNR: HCMD010967282026}

Case QR

and
and Crl.MP(MD).No. 15093 of 2026
and

CRL MP(MD) NO. 19347 of 2026
{CNR: HCMD011277182026}

Case QR

In
Crl.OP(MD).No.18042 of 2026

CRL OP(MD) NO. 15598 of 2026

1.M/s.V.K.S.Transports
(A registered partnership firm under Indian
Partnership Act)
Rep.by its Managing Partner
S.Suresh

2.M/s.V.K.S.Transports
Rep.by its
Partner

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Case Citation: (2026) ibclaw.in 6006 HC

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S.Kalaiselvi ....Petitioners/Accused Nos.2 & 3

Vs

1.The State of Tamil Nadu Rep.by its
The Inspector of Police
Chinthamanipatty Police Station
Karur District
Crime No.135 of 2026 ....1st Respondent/Complainant

2.Maharajan
Manager
First Energy Private Limited
7th Floor, Fountainhead Tower
Viman Nagar , Haveli Taluk
Pune district, Maharastra 411 014 ...2nd Respondent/Defacto Complainant

3.Everrenew Energy Private Limited
Represented by its interim Resolution Professional
Mr.S.Kangayan
(A company under IBC Resolution process)
Aneja Towers, B-Block
2nd Floor, Perungudi OMR
Chennai 600 0095 ....3rd Respondent/Accused No.1

Crl.MP(MD).No.19347 of 2026

M/s.V.K.S.Transports
Represented by its Partner
Mr.S.Suresh
234 Salem Road
Namakkal Town and Taluk
Namakkal District ....Petitioner/Respondent No.3

Vs

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Case Citation: (2026) ibclaw.in 6006 HC

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1.M/s.First Energy Private Limited
Represented by its authorised representative
Devusabapathi Muthumanickam
S/o.Muthumanickam
Having its registered office at
7th Floor, Fountainhead Tower
Viman Nagar
Pune, Maharastra 411 014 ...1st Respondent/Petitioner

2.The Superintendent of Police
Karur District

3.The State of Tamil Nadu Rep. by its
The Inspector of Police
Chinthamanipatty Police Station
Karur District
Crime No.135 of 2026 ...Respondents 2 & 3/Respondents 1 & 2

Prayer in Crl.OP(MD).No.15598 of 2026: Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to Crime No.135 of 2026 on the file of the first respondent herein and to quash the same insofar as the petitioners are concerned.

Prayer in Crl.MP(MD).No.19347 of 2026: Criminal Miscellaneous Petition is filed under Section 528 of BNSS, to recall the order passed in Crl.OP(MD).No.18042 of 2026 dated 20.08.2026 on the file of this Court.

In Crl.OP(MD).No.15598 of 2026:

For Petitioners : Mr.S.Jayavel

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For Respondents : Mr.P.Samuel Gunasingh
Additional Public Prosecutor for R1

: Mr.M.Rajaraman for R2

In Crl.MP(MD).No.19347 of 2026

For Petitioners : Mr.S.Jayavel

For Respondents : Mr.M.Rajaraman for R1

: Mr.P.Samuel Gunasingh
Additional Public Prosecutor for R2 & R3

COMMON ORDER

The petitioners, who are arrayed as accused Nos.2 and 3 in Crime No. 135 of 2026 on the file of the first respondent police, have filed Crl.OP(MD).No.15598 of 2026 under Section 528 of BNSS, 2023, praying to quash the said FIR, which has been registered against them for the offences under Sections 61(1), 316(3) and 318(3) of the Bharatiya Nyaya Sanhita, 2023 (in short, 'BNS'). The very same party has also filed Crl.MP(MD).No. 19347 of 2026, seeking to recall the order dated 20.08.2026 passed by this Court in Crl.OP(MD).No.18042 of 2026. Since both the petitions arise out of the same transaction, they were heard together and are disposed of by this common order.

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(A).Brief facts of the case:

2.The case of the defacto complainant, in brief, is as follows: The defacto complainant, M/s.First Energy Private Limited, is in the business of establishing power plants that run on renewable sources of energy. The first accused, M/s.Everrenew Energy Private Limited, undertakes electrical and civil projects on a turnkey basis. By an agreement dated 01.03.2024, the defacto complainant awarded to the first accused the work of design, engineering, procurement, testing, installation, construction and commissioning of a wind energy project. Among its other obligations, the first accused had undertaken to transport the equipment and materials from the stockyard of the defacto complainant to the project sites, and the first accused, in turn, assigned the said transportation work to the second accused.

3.During November 2025, the project materials were loaded into seventeen vehicles belonging to the second accused at the stockyard of the defacto complainant at Mylampatti/Mundipatti, for being carried to the various project sites. However, after the loading was completed, the second accused did not move the vehicles, citing certain payments alleged to be due to it from the first accused.

4.It is the further case of the defacto complainant that it had already

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paid the entire contract charges, inclusive of the transportation charges, to the first accused. When the second accused refused to move the vehicles, the defacto complainant requested it to at least unload the materials, so as to enable it to engage another transport contractor. In the alternative, the defacto complainant offered to pay the transportation charges directly to the second accused, leaving the second accused to recover the same from the first accused. The second accused acceded to neither of these requests.

5.The defacto complainant has also alleged that one of the vehicles is carrying erection tools taken on hire by it, for which hire charges continue to accrue even though the tools are lying unused, and that the second accused raised the issue of its dues from the first accused only after the vehicles had been loaded. As its goods remained stranded in the trucks of the second accused within its own stockyard, the defacto complainant lodged a complaint alleging criminal conspiracy, criminal breach of trust and cheating, based on which the present FIR has been registered.

6.The defacto complainant in Crime No.135 of 2026 also filed Crl.OP(MD).No.18042 of 2026, seeking a direction to the respondent police to expeditiously recover and secure its materials, which were alleged to have been illegally detained by the accused, and to hand them over to the

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Case Citation: (2026) ibclaw.in 6006 HC

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complainant company.

7.After hearing the said petition, this Court, by order dated 20.08.2026, directed the transport company to produce before the police the bills for the transportation relating to the complainant company, and directed the complainant company, on receipt of such bills, to settle the transportation charges. Liberty was granted to the complainant to seek reimbursement from the first accused company. On such payment being made, the second accused was directed to unload the goods and hand them over to the complainant company.

8.Thereafter, the second accused/transport company filed Crl.MP(MD).No.19347 of 2026 to recall the said order, contending that it was not heard before the order was passed. The learned counsel appearing for the second accused adopted, for the purpose of the recall petition as well, the very same arguments advanced in the quash petition.

(B).Submissions of the learned counsel on either side:

?9.The learned counsel appearing for the petitioners would submit that the petitioners are a common carrier registered under the Carriage by Road Act, 2007. By order dated 18.06.2026, the National Company Law Tribunal (NCLT) admitted the first accused into the corporate insolvency resolution

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process, appointed an Interim Resolution Professional and declared a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016. The petitioners have submitted their claim in Form 'B' before the Interim Resolution Professional. For the past six months, their loaded vehicles have been lying idle in a state of status quo, under the watch of the staff of the first accused and the defacto complainant, and neither of them has come forward to clear the dues. According to the learned counsel, these dues stand statutorily secured by the lien under Section 15(4) of the Carriage by Road Act, 2007, which, in the absence of any prohibitory order, confers on the carrier a superior and uninterrupted right to retain and liquidate the goods.

10.The learned counsel would further contend that the defacto complainant, with the assistance of the police, has set the criminal law in motion only to defeat the lien available to the petitioners under Section 15(4) of the Carriage by Road Act and the protection afforded under the Insolvency and Bankruptcy Code, 2016, and to take away the cargo which the first accused alone is entitled to receive. On these grounds, the learned counsel prayed for quashing of the FIR.

11.Per contra, the learned counsel appearing for the defacto complainant would submit that, if the insolvency resolution process had in

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fact commenced in June 2026, the same ought to have been brought to the notice of the defacto complainant, and the second accused ought not to have accepted the cargo at all. Even after the moratorium came into force, the second accused continued to accept consignments, and those consignments were delivered after the defacto complainant paid the freight directly to the second accused, with the written approval of the first accused. In the present instance, after loading the cargo, the second accused abruptly refused to move the vehicles and is holding the cargo hostage. According to the learned counsel, such conduct is nothing but a criminal act intended to grab the property of the defacto complainant.

12.The learned counsel would further submit that the cargo belongs neither to the first accused nor to the second accused. A carrier may retain cargo for unpaid freight only after carrying it to its destination, whereas in the present case, the employees of the second accused refused to move the vehicles out of the stockyard immediately after the loading was completed. The defacto complainant has paid in full for every movement of cargo undertaken by the second accused on its behalf, and is ready and willing even now to pay the freight for carrying the cargo to the project sites. The second accused, however, insists that the entire dues payable to it by the first accused

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Case Citation: (2026) ibclaw.in 6006 HC

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should be routed through the defacto complainant, though the defacto complainant bears no liability whatsoever in that regard. Retaining the cargo of the defacto complainant as security for such dues is plainly illegal, and therefore, the FIR deserves to be investigated.

13.The learned counsel has also brought to the notice of this Court that the second accused had sought anticipatory bail in Crl.OP(MD).No.14134 of 2026, wherein this Court, by order dated 20.07.2026, directed the second accused to appear before the respondent police from 28.07.2026 to 03.08.2026, except on Sunday, and to cooperate with the investigation; directed the Investigating Officer to record the statements of the petitioners and the defacto complainant; directed the police not to arrest the petitioners in the meantime; and listed the matter on 03.08.2026 for a status report. Without complying with those directions, the petitioners proceeded with the present quash petition, obtained an order of interim stay, and immediately thereafter withdrew the anticipatory bail petition. The quash petition discloses neither the pendency of the bail petition nor the conditions imposed therein. According to the learned counsel, this is nothing but a clear attempt to circumvent the orders of this Court.

14.Lastly, the learned counsel would submit that the defacto

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Case Citation: (2026) ibclaw.in 6006 HC

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complainant has sustained heavy losses, as it has been unable to complete the project within time. Though the defacto complainant has paid the first accused in full, its cargo is being held hostage by the second accused, who is none other than the agent of the first accused. Without prejudice to its contentions, the defacto complainant even offered to pay the freight directly to the second accused for every movement and to claim reimbursement from the first accused, but even that offer was turned down. It was urged that the first and second accused are acting in collusion with the intention of causing loss running into several crores, and hence, the quash petition is liable to be dismissed.

15.This Court has given its anxious consideration to the submissions made by the learned counsel on either side and perused the materials available on record.

(C).Discussion:

16.At the outset, it would be useful to refer to the facts which are not in dispute. The defacto complainant, which is engaged in developing and operating renewable energy projects, is executing a 60 MW wind power project in Karur District, Tamil Nadu, and is the lawful owner of the project materials. It appointed the first accused as the Engineering, Procurement and

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Construction (EPC) contractor for the said project. The first accused, in turn, engaged the second accused, M/s.V.K.S.Transports, to carry the project materials from the stockyard of the defacto complainant to the respective project locations. On 07.11.2025 and on other dates in November 2025, the materials of the defacto complainant were loaded into 17 vehicles for being transported to the project sites, after which the second accused refused to move the vehicles out of the stockyard.

17.The defence put forth by the petitioners, in substance, is that the first accused, which is undergoing the insolvency resolution process, has failed to settle their dues; that those dues are statutorily secured by the carrier's lien under Section 15(4) of the Carriage by Road Act, 2007, which entitles them to retain the cargo; and that what is essentially a civil dispute has been given the colour of a criminal offence.

18.In the light of the above, the question that falls for consideration is whether the second accused is entitled to retain the cargo belonging to the defacto complainant towards the carrier charges said to be payable by the first accused.

19.A perusal of the additional typed sets of papers filed on either side shows that, when the first accused failed to make regular payments to the

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second accused, an internal arrangement was evolved, whereby the defacto complainant, with the written consent of the first accused, paid the second accused directly up to November 2025. The defacto complainant continues to be willing to pay the transportation charges directly to the second accused if the cargo is carried to the project sites, and has, in the alternative, requested that the cargo be at least unloaded at its stockyard. The petitioner company has refused both. As a result, the cargo continues to remain in the vehicles of the petitioner, held hostage at the very stockyard where it was loaded. These facts, prima facie, make out a case under Sections 316(3) and 318(3) of BNS, 2023 against the petitioner company.

20.It is also pertinent to note that the project materials have been lying idle in the 17 vehicles of the petitioner company for nearly ten months, and it is an admitted fact that there is no contract between the petitioner company and the defacto complainant.

21.The petitioners claim a right to retain the cargo on the strength of the carrier's lien under Section 15(4) of the Carriage by Road Act, 2007. It would, therefore, be apposite to extract Section 15 of the said Act, which reads thus:

"*15.* ***Right of common carrier in case of consignee's default.***

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- (1) If the consignee fails to take delivery of any consignment of goods within a period of thirty days from the date of notice given by the common carrier, such consignment may be deemed as unclaimed:

Provided that in case of perishable consignment, the period of thirty days shall not apply and the consignment shall be deemed unclaimed after a period of twenty-four hours of service of notice or any lesser period as may be mutually agreed to by and between the common carrier and the consignor.

(2) In the case of an unclaimed consignment under sub-section (1), the common carrier may,-

(a) if such consignment is perishable in nature, have the right to sell the consignment; or

(b) if such consignment is not perishable in nature, cause a notice to be served upon the consignee or upon the consignor if the consignee is not available, requiring him to remove the goods within a period of fifteen days from the date of receipt of the notice and in case of failure to comply with the notice, the common carrier shall have the right to sell such consignment without any further notice to the consignee or the consignor, as the case may be.

(3) The common carrier shall, out of the sale proceeds received under sub-section (2), retain a sum equal to the freight, storage and other charges due including expenses incurred for the sale, and the surplus, if any, from such sale proceeds shall be returned to the consignee or the consignor, as the case may be.

(4) Unless otherwise agreed upon between the common carrier

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and consignor, the common carrier shall be entitled to detain or dispose off the consignment in part or full to recover his dues in the event of the consignee failing to make payment of the freight and other charges payable to the common carrier at the time of taking delivery."

22.A reading of the above provision makes it clear that sub-sections (1) to (3) of Section 15 deal with a situation where the consignee fails to take delivery of the goods within the period of notice. Sub-section (4) enables the carrier to detain or dispose of the consignment, either in part or in full, to recover its dues, when the consignee fails to pay the freight and other charges at the time of taking delivery. Thus, the right conferred on a carrier under Section 15 arises only after the consignment has been carried to its destination and the consignee, thereafter, fails either to take delivery or to pay the freight.

23.In the case on hand, though the cargo was loaded into the vehicles of the petitioner at the stockyard of the defacto complainant, the vehicles never moved out of the stockyard. As soon as the loading was completed, the petitioner refused to take the vehicles to their destination, on the ground that the first accused had not cleared its dues.

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24.It is seen that the petitioner company has approached the Micro, Small and Medium Enterprises Facilitation Council, Coimbatore, only as against the first accused, and has not raised any claim whatsoever against the defacto complainant. Even in the present quash petition, there is no averment that the defacto complainant failed to pay the freight for any consignment after it reached its destination.

25.When disputes arose between the first and second accused in November 2025, the second accused received the freight directly from the defacto complainant and moved the cargo, after the defacto complainant had obtained the written consent of the first accused for such direct payment. The defacto complainant has offered the very same arrangement for the present consignment as well. Nevertheless, the petitioner has refused to move the cargo and continues to hold it to ransom at the very stockyard where it was loaded.

26.In order to invoke Section 15(4) of the Act, the common carrier must have carried the goods to their destination, and the consignee must have failed to pay the freight at the time of taking delivery. It is only then that the carrier would be entitled to detain the consignment. In the present case, the cargo has not moved at all. Hence, the question of the consignee committing

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default in payment of freight does not arise, and the petitioner company has no right whatsoever to detain the consignment.

27.The learned counsel for the petitioners also placed reliance on the work order issued by the first accused, to contend that the first accused is both the consignor and the consignee, and that the petitioners are therefore entitled to retain the goods for non-payment of freight. No doubt, the work order describes the corporate office of the first accused as the consignor and the first accused at the project site as the consignee. However, the said description has to be understood in the context of the contract between the defacto complainant and the first accused, which, as already noticed, is an EPC contract. The first accused was obliged not only to transport the cargo to the project site but also to erect it there, and it sub-contracted only the transportation work to the petitioner. That alone explains why the first accused is shown as both the consignor and the consignee in the work order. It is nobody's case that the cargo belongs to the first accused. Admittedly, the cargo is the property of the defacto complainant, which was entrusted to the first accused, and through it to the petitioner, only for the purpose of carrying it to the project site. Therefore, the petitioner cannot take refuge under the description found in the work order to contend that the first accused alone is

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the consignee and that the cargo can be retained for non-payment of freight.

28.It would also be relevant to refer to Sections 170 and 171 of the Indian Contract Act, 1872, which read as follows:

> ***170. Bailee's particular lien.—****Where the bailee has, in accordance with the purpose of the bailment, rendered any service involving the exercise of labour or skill in respect of the goods bailed, he has, in the absence of a contract to the contrary, a right to retain such goods until he receives due remuneration for the services he has rendered in respect of them.*
>
> ***Illustrations***
>
> *(a) A delivers a rough diamond to a jeweller, to be cut and polished, which is accordingly done. B is entitled to retain the stone till he is paid for the services he has rendered.*
>
> *(b)A gives cloth to B, a tailor, to make into a coat. B promises A to deliver the coat as soon as it is finished, and to give a three months credit for the price. B is not entitled to retain the coat until he is paid.*
>
> ***Section 171****: General lien of bankers, factors, wharfingers, attorneys and policy-brokers- Bankers, factors, wharfingers, attorneys of a High Court and policy-brokers may, in the absence of a contract to the contrary, retain as a security for a general balance of account, any goods bailed to them; but no other persons have a right to retain, as a security for such balance, goods bailed to them, unless there is an express contract to that effect".*

29.Section 170 confers a particular lien on a bailee, entitling him to

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retain the goods until he receives due remuneration for the services rendered in respect of those goods. Therefore, the petitioner could have claimed such a lien only after rendering the service, namely, carrying the cargo to its destination. Admittedly, the petitioner company is not claiming freight for any movement of cargo undertaken for the defacto complainant, and the dues claimed by it have no connection with any service rendered to the defacto complainant at any point of time.

?30.The claim of the petitioner company pertains to services rendered to some other party, for which it had been engaged through the first accused. In effect, the petitioner company is attempting to exercise a general lien, of the nature contemplated under Section 171 of the Contract Act, over the goods belonging to the defacto complainant.

31.In this regard, it would be useful to refer to the decision of the Hon'ble Supreme Court in ***Board of Trustees of the Port of Bombay and others v. Sriyanesh Knitters, (1999) 7 SCC 359***, wherein it has been held in paragraph 17 as follows:

> *"17.Having come to the conclusion that the MPT Act does not oust the provisions of Section 171 of the Contract Act what we have now to see is whether the appellants can claim any relief or benefit under the said section. Section 171 of the Indian Contract Act, 1872,*

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reads as follows:

> *"171 General lien of bankers, factors, wharfingers, attorneys, and policy-brokers - Bankers, factors, wharfingers, attorneys of a High Court and policy-brokers may, in the absence of a contract to the contrary, retain as a security for a general balance of account, any goods bailed to them; but no other persons have a right to retain, as a security for such balance, goods bailed to them, unless there is an express contract to that effect."*
>
> *This section is in two parts. The first part gives statutory right of lien to four categories only, namely, bankers, factors, wharfingers and attorneys of High Court and policy-brokers subject to their contracting out of Section 171. The second part of Section 171 applies to persons other than aforesaid five categories and to them Section 171 does not give a statutory right of lien. It provides that they will have no right to retain as securities bailed to them unless there is an express contract to that effect. Whereas in respect of the first category of person mentioned in Section 171 section itself enables them to retain the goods as security in the absence of a contract to the contrary but in respect of any other person to whom goods are bailed the right of retaining them as securities can be exercised only if there is an express contract to that effect.*

32.It is, therefore, well settled that the statutory right of general lien under Section 171 of the Contract Act is available only to bankers, factors, wharfingers, attorneys of a High Court and policy-brokers. Any other person

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who seeks to retain goods as security for a general balance of account has to establish an express contract to that effect. In the present case, the petitioner company has not even pleaded the existence of any such contract.

33.The conduct of the petitioner also assumes significance. Immediately after the registration of the FIR, the petitioner company approached this Court seeking anticipatory bail in Crl.OP(MD).No.14134 of 2026, wherein the following interim directions were issued on 20.07.2026:

"***7.Accordingly, this Court passed the following directions:***

7.1. The Investigating Officer is directed to collect all the relevant documents, conduct further investigation, and file a status report on or before 03.08.2026.

7.2. The first petitioner is directed to appear before the respondent Police from 28.07.2026 to 03.08.2026, except Sunday (i.e., on 02.08.2026), and cooperate with the investigation.

7.3. The Investigating Officer is directed to record the statement of the petitioners and the defacto complainant in this case.

7.4. The respondent Police is directed not to arrest the petitioners till then.

7.5. The learned Government Advocate (Criminal Side) is directed to intimate this order to the respondent Police."

34.It is admitted that the petitioner did not appear before the

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respondent police along with the relevant documents on the dates stipulated by this Court. On the contrary, it proceeded with the quash petition filed on 14.07.2026 by suppressing the directions issued by the bail Court, obtained an order of interim stay on 28.07.2026, and thereafter chose to withdraw the anticipatory bail petition.

35.In the meanwhile, the complainant company filed Crl.OP(MD).No. 18042 of 2026, seeking a direction to the respondent police to expeditiously recover and secure its materials illegally detained by the petitioner company and to hand them over to it. By order dated 20.08.2026, this Court issued the following directions in paragraph 8 thereof:

> *"8. Considering the fact that the goods have been retained by the third respondent and only due to the non-payment of the transportation charges, this Court is inclined to pass the following directions:*
>
> *a) The third respondent is directed to place the bills relating to the transportation charges before the second respondent police for this transport concerning the petitioner company;*
>
> *b) On receipt of the said bills, the petitioner shall clear the said transportation charges;*
>
> *c) The petitioner is at liberty to seek reimbursement from M/s.Everrenew Energy Private Limited as per the contract conditions;and*
>
> *d) On payment of the transportation charges, the third*

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respondent is directed to unload the goods and hand over the same to the petitioner company."

36.The petitioner company neither produced its bills for the transportation charges before the police nor sought settlement of the same from the defacto complainant. Instead, it has filed Crl.MP(MD).No.19347 of 2026 seeking to recall the said order. It is thus evident that the petitioner is neither willing to carry the goods to their destination and collect the freight, nor willing to unload them at the stockyard.

37.To sum up, the cargo is the property of the defacto complainant. The first accused, being the EPC contractor, engaged the second accused/petitioner to transport the same. The petitioner is now holding the cargo to ransom, on the ground that the first accused owes it money for the movement of cargo for some other party. There is no allegation that any freight remains unpaid for the cargo carried for the defacto complainant. On the contrary, on earlier occasions, it was at the insistence of the petitioner itself that the defacto complainant paid the freight directly, bypassing the first accused, after obtaining the written consent of the latter. Instead of seeking a similar arrangement, or refusing to load the cargo at the threshold, the petitioner waited until the cargo was loaded in all the 17 carriers and then

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refused to move the vehicles, citing the dues payable by the first accused.

38.It is not in dispute that no freight or other lawful dues are outstanding from the defacto complainant. In such circumstances, withholding its consignment is clearly illegal, and such conduct cannot be equated with a legitimate exercise of the carrier's lien for unpaid freight under Section 15(4) of the Carriage by Road Act, 2007.

39.The petitioner company cannot, on the one hand, admit that no freight is due from the defacto complainant and, on the other hand, contend that the cargo of the defacto complainant can be detained for freight dues. Having accepted the goods for a specific purpose, the petitioner was bound to deal with them in a manner consistent with that purpose. Its refusal to move the cargo, not for want of freight on that cargo but on account of an unrelated monetary claim, constitutes a fundamental departure from the purpose for which possession of the cargo was entrusted to it.

40.The continued detention of the cargo has also exposed the defacto complainant to consequential losses, such as delay in the erection and commissioning of the windmills, contractual consequences arising from disruption of the project, and additional expenditure towards transportation and storage. The petitioner cannot be permitted to create a collateral security

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interest over the cargo of the defacto complainant merely by virtue of being in physical possession of the same. Its refusal, after taking possession of the cargo, either to unload it or to carry it to the destination would, prima facie, clearly attract Sections 316(3) and 318(3) of BNS. Therefore, the dispute between the defacto complainant and the petitioners cannot be branded as a purely civil one, and the FIR does not warrant interference.

41.It is well settled that the mere availability of a civil remedy is no bar to criminal proceedings. The Hon'ble Supreme Court, in ***Indian Oil Corporation v. NEPC India Ltd. and others, (2006) 6 SCC 736***, has held in paragraph 12(v) as follows:

> *"12(v).A given set of facts may make out : (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.*

42.Similarly, a three-Judge Bench of the Hon'ble Supreme Court, in

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Vijayander Kumar and others v. State of Rajasthan and another, (2014) 3 SCC 389, has held in paragraph 12 as follows:

> "*12.Learned counsel for the respondents is correct in contending that a given set of facts may make out a civil wrong as also a criminal offence and only because a civil remedy may also be available to the informant/complainant that itself cannot be a ground to quash a criminal proceeding. The real test is whether the allegations in the complaint discloses a criminal offence or not....*"

43.The next question that arises is whether the facts disclosed in the FIR, prima facie, make out the commission of a cognizable offence. When tested on the above touchstone, the following facts emerge:

(a)The cargo admittedly belongs to the complainant company, and it was entrusted to the petitioner company, in its capacity as a carrier, for the limited purpose of transporting the same from the stockyard of the complainant company to the project sites.

(b)Immediately after the cargo was loaded in 17 vehicles, the petitioner company refused to move the vehicles, not on account of any freight due for that cargo, but on account of unrelated dues claimed by it from the first accused.

(c)Admittedly, no freight is due from the complainant company,

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and the petitioner company has turned down both the offer of the complainant company to pay the transportation charges directly and its request to unload the cargo at the stockyard itself.

(d)The petitioner company has no lien over the cargo, either under Section 15(4) of the Carriage by Road Act, 2007 or under Section 170 of the Indian Contract Act, 1872, nor does it have any general lien under Section 171 of the said Act.

(e)The cargo has remained in the custody of the petitioner company for about ten months, thereby causing loss to the complainant company.

(f)When a carrier, having been entrusted with goods, retains them contrary to the purpose of the entrustment in order to coerce the owner into satisfying the debt of a third party, the same would, prima facie, amount to dealing with the property dishonestly, since wrongful gain includes the wrongful retention of property, and wrongful loss includes the owner being wrongfully kept out of his property. These facts, therefore, prima facie satisfy the ingredients of criminal breach of trust by a carrier under Section 316(3) of BNS, which is a cognizable offence. Further, the petitioner company accepted the

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cargo and permitted the loading without any demur, against the background of the earlier arrangement under which the freight was paid directly by the complainant company, and raised the dispute regarding the dues of the first accused only after the cargo came into its possession. These circumstances, coupled with the allegation that the first and second accused are acting in collusion, prima facie indicate a dishonest intention and a meeting of minds, so as to attract Sections 318(3) and 61(1) of BNS.

44.Whether the petitioner company harboured a dishonest intention from the very inception, and whether it acted in conspiracy with the first accused, are matters to be ascertained in the course of investigation, and the same cannot be decided by this Court at this stage. In view of the judgments of the Hon'ble Supreme Court referred to supra, the availability of civil remedies to the petitioner company, such as its claim before the Interim Resolution Professional or the proceedings before the MSME Facilitation Council against the first accused, would not by itself take away the criminal character of the acts alleged. Since the FIR discloses the commission of cognizable offences, the respondent police are duty-bound to investigate the

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IBC Laws | www.ibclaw.in

Case Citation: (2026) ibclaw.in 6006 HC

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same, and this Court would not be justified in interdicting the investigation at the threshold.

45.Insofar as the recall petition is concerned, the petitioner transport company has neither demonstrated any prejudice nor advanced any fresh submission warranting recall of the order passed in Crl.OP(MD).No.18042 of 2026. Moreover, this Court has found, prima facie, that cognizable offences are made out against the petitioner company. Hence, the prayer for recall of the said order is not sustainable in the eye of law.

(D).Conclusion:

46.In the light of the foregoing discussion, this Court does not find any merit in either of the petitions. Accordingly,

(a) Crl.OP(MD).No.15598 of 2026 stands dismissed; and

(b) Crl.MP(MD).No.19347 of 2026 in Crl.OP(MD).No.18042 of 2026 also stands dismissed. Consequently, the connected miscellaneous petition is closed.

07.10.2026.

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https://www.mhc.tn.gov.in/judis

IBC Laws | www.ibclaw.in

Case Citation: (2026) ibclaw.in 6006 HC

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Index : Yes/No
NCC : Yes/No
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To

1. The Inspector of Police
Chinthamanipatty Police Station
Karur District
Crime No.135 of 2026

2.The Superintendent of Police
Karur District

3.The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai

https://www.mhc.tn.gov.in/judis

IBC Laws | www.ibclaw.in

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R.VIJAYAKUMAR, J.

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CRL OP(MD) No. 15598 of 2026
and
Crl.MP(MD).No.15093 of 2026
and
Crl.MP(MD).No.19347 of 2026
in
Crl.OP(MD).No.18042 of 2026

07.10.2026

https://www.mhc.tn.gov.in/judis

IBC Laws | www.ibclaw.in