

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-06-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP Nos. 18045 of 2025 and 1872 of 2026

in

CrI.M.P.No.11843 of 2025 and 1237 of 2026

N. Lakshman Reddy
S/o.N.Yellareddy, Authorised Attorney/Manager,
M/s.NSK Clearing and Forwarding,
New No.194 (Old No.236), Thambu Cheety Street,
George Town, Parrys, Chennai-600 001.
R/o.Door No.29, Pantna House,Serene Apartments, Dr.Guruswamy Road,
Chetpet, Chennai-600 031. Permanent Address
Village Kumara Pillai Post,Theethava Guntapalli, K.V.Palli Mandal,
District Chittoor, Andra Pradesh.

..Petitioner in CrI.O.P.No. 18045 of 2025

Shri Rohitash Serawat
S/o.Mahadev Serawat,
Permanently Residing at Village Nangal Bharda,
Vaya Udaipuriya, the Chomu, Jaipur, Rajasthan - 303 807.
Presently residing at Flat No.1012, Brooksdale Apartments,
Sankar Nagar, Gandhi Road, Pammal, Chennai – 600075.

..Petitioner in CrI.O.P.No. 1872 of 2026

Vs

The State Rep by, The Deputy Superintendent of
Police,Central Bureau of Investigation, SPE,
Anti-Corruption Branch,Chennai-600 006.
Tamilnadu.

..Respondent in both
CrI.O.Ps

Prayer in CrI. O.P.No. 18045 of 2025: To call for the records and quash the proceedings in CC No.6/2022 on the file of IX Special Judge for CBI Cases,



Chennai in Pursuance of Final Report No.30/2020 dated 30.12.2020, in so far as Accused No.3 is concerned and thus render justice.

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Prayer in Crl.O.P.No.1872 of 2026: This petition is filed under Section 482 of Cr.P.C r/w Section 528 of BNSS, 2023 to Quash the proceedings in C.C.No.06/2022 on the file of IX Special Judge for CBI Cases, Chennai, in pursuance of Final Report No.30/2020 dated 30.12.2020, insofar as the 2nd Accused is concerned and thus render justice.

For Petitioner in

Crl.O.P.No.18045 of 2025: Mr. B. Sathish Sundar

For Petitioner in

Crl.O.P.No. 1872 of 2026: Mr.R. Rajarathinam, Sc
for Mr.S. Arunachalam

For Respondent in

both Crl.O.P's: Mr. K. Srinivasan,
Special Public Prosecutor

ORDER

Both the petitions have been filed to quash the entire proceedings in C.C.No.6 of 2022 on the file of IX Special Judge for CBI Cases, Chennai.

2. The facts of the case in brief is as follows:-

2.1. The case of the prosecution is that M/s Apollo Hospital Enterprises Limited, Chennai had imported medical equipment namely Proteus 235 Proton



Therapy system, Cyclotron and accessories from M/s ION Beam Applications (IBA), Belgium (herein after called as exporter) for Rs.191,08,42,055/- on

27.02.2017. The materials were imported in 28 wooden cases (break bulk) and 22 containers through Chennai Port. The customs clearance was handled by the third accused on behalf of the importer i.e. M/s Apollo Hospital Enterprises Limited, Chennai. The third accused filed a bill of entry dated 28.03.2017 on behalf of the importer. The Chennai Port Trust Officials charged wharfage to the tune of Rs.59,23,610/- based on ad vlorem at the rate of 0.31% in terms of Section 3(iv) of the official notification dated 10.10.2016.

2.2.The Import manager of the 3rd accused/agency who is arrayed as 4th accused made two attempts by a letter dated 21.09.2017 and 28.08.2017 for claiming refund of the said wharfage charges from Chennai Port Trust. It is alleged that the 3rd and 4th accused in collusion with the 2nd accused/Appraiser prepared a fake Proforma invoice to be issued by the exporter in favour of the importer specifying total price of break bulk and containerized cargo seperately. In furtherance to the conspiracy the 3rd and 4th accused wrote a letter dated 21.08.2017 and 21.09.2017 enclosing the fake and forged proforma invoice to the Assistant Commissioner of Customs to give seperate value for break bulk Cargo and containerized cargo based on fake and forged proforma invoice. On the said request made on 21.09.2017 by the third and fourth accused, The



second accused/ The Appraiser, Customs Chennai opened a new file and issued a letter dated 21.09.2017 having break up value for Break bulk Cargo and containerized cargo to Traffic Manager, Commercial, Chennai Port Trust by violating the norms and procedures of the Customs Department. It is further alleged that the second accused has mentioned in the note file that they have thoroughly verified with the ICES Portal system and the same was approved by the first accused, whereas no such breakup value was available. Thereby, all the accused conspired together and cheated the Chennai Port Trust and got refunded of wharfage charges to the tune of Rs.21,85,082/- from the Chennai Port Trust without the knowledge of the exporter.

2.3. Therefore, the Respondent registered F.I.R in RC MA 0322020A0004 under sections 120-B r/w 420, 468, r/w 471 of IPC and Section 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988 on 29.07.2020. After completion of the investigation, the respondent filed a final report for the charges u/s 120-B r/w 420, 468, r/w 471 of IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 as against all four accused persons. However, the respondent filed a final report as against the first accused while pending sanction for prosecution. Subsequently the sanction to prosecute the first accused was declined. Therefore, the prosecution was initiated as against the 3 accused persons A2, A3 and A4. The first and second accused are public



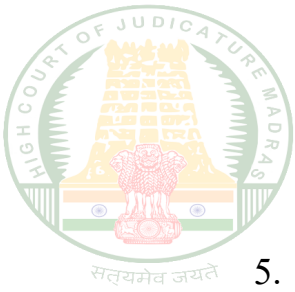
servants. The third accused the manager of a proprietor firm functioning as a goods clearing and forwarding agency. The 4th accused is the Import Manager of the 3rd accused. A2 and A3 have filed the above petitions to quash the proceedings.

3. The counsel for the petitioner in Crl.O.P.No.18045 of 2025 /3rd accused submits that the petitioner did not conspire with anybody. The benefit of refund of excess wharfage charges collected and disbursed was not the petitioner nor his entity. Only on behalf of importer, the excess wharfage charges were claimed and paid to the importer. He further submits that even according to the case of the prosecution the petitioner in Crl.O.P.No.18045 of 2025/3rd accused wrote two letter to Chennai Port Trust and the same was returned and the second accused recommended the claim made by the 3rd accused on behalf of the importer to the first accused. In turn the first accused allowed the claim and refunded the wharfage charges and the same was paid to the importer. Therefore, it is only assessment and no question of fabrication of any records or forging anybody signature to claim excess wharfage charges. After assessing excess wharfage charges the excess amount was refunded by the first accused as recommended by the second accused. Therefore, there is no loss to the exchequer and no gain to the accused persons, whatever the excess amount paid by the importer it was refunded by the first accused. The first and second



accused are the customs officials and no prosecution has been initiated as against them who refunded a sum of Rs.21,85,082/-. Hence, there is no evidence to prove that there was personal gain or undue advantage to the petitioners. Though the prosecution specifically alleges that A1 and A2 violated procedures by issuing the breakup letter, there is no evidence that the 3rd accused intercepted or colluded with them for issuing break-up letter. He further submits that the cancellation of licence of the 3rd accused has been set aside by the Customs Excise and Service Tax Appellate Tribunal now the 3rd accused has issued with licence to do clearing and forwarding agency.

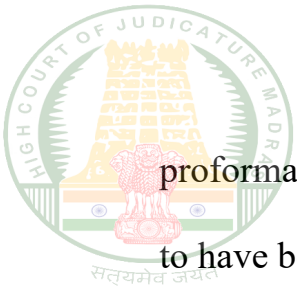
4. The learned counsel further submits that the refund which was sanctioned in favour of the importer has been paid on demand made to the Port Trust, Chennai, as if there is no wrongful loss caused to the exchequer and no corresponding wrongful gain to the petitioner or to other accused persons. In support of his contention he relied upon the Judgments rendered by the Apex Court in the case of *Prabhu Chawla Vs State of Rajasthan and another reported in (2015) 17 SCC 562* and in the case of *K. Bharathi Devi and another Vs State of Telangana and another in SLP (Criminal) No.4353 of 2016* and in the case of *N.S.Gnaneshwaran Etc Vs. Inspector of Police and another reported in (2025) SCC Online SC 1257*.



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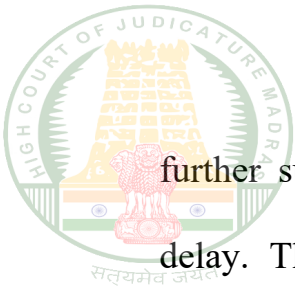
5. The learned counsel for the second accused/ petitioner in Crl.O.P.No.1872 of 2026 submits that the petitioner has nothing to do with the charges as alleged by the prosecution. Since the letter submitted by A3 and A4 was forwarded to the first accused. Infact the second accused had no power or authority to refund the excess wharfage charges. On perusal of documents and the break up invoice it is seen that the first accused has verified all the relevant documents and ordered to refund the excess wharfage charges. The certification given by the customs indicates the breakup value of the break bulk and containerized cargo which was furnished to the Traffic Manager of the Chennai Port Trust at the instance of the importer. It was duly authenticated and signed by the first accused. Hence, there is no direct evidence to relate the petitioner to the act committed by the first accused. In fact the sanction for prosecution has been obtained as against only the second accused and the sanction as against the first accused was declined. Therefore, no charges is made out against the petitioner and the entire proceedings is nothing but a clear abuse of process of law.

6. Per contra Mr.K.Srinivasan, the learned Special Public Prosecutor appearing for the respondents filed a counter and submits that only on the instruction of the 3rd accused, the 4th accused had prepared a modified version of



proforma invoice dated 08.11.2016 to the tune of Rs.27,140,000,00/- purported to have been issued by the exporter and informed the 3rd accused. Thereafter, the

3rd accused visited the customs office and conspired with the first and second accused to get separate value of invoice as directed by the 3rd accused and the 4th accused forwarded a letter dated 21.09.2017 along with modified proforma invoice having break up value of break bulk cargo and containerized cargo to the second accused for getting separate invoice. The second accused opened a new file without entering the said request letter in the official record and put up a note stating that they have thoroughly verified in ICES Portal system and put up a note for approval to the first accused. As per the EDI data maintained by Customs Department no one can segregate the break up value of break bulk value of break bulk cargo and containerized cargo. There is no such breakup value available in the system. He further submits that the 4th accused as directed by the 3rd accused prepared modified proforma invoice dated 08.11.2016 to get the refund of wharfage charges from Chennai Port Trust through customs. Thereafter, a sum of Rs.21,85,082/- was credited to the current account maintained by the 3rd accused and in turn the 3rd accused issued cheque in favour of the importer for the said sum. Therefore, there are suspicious oral and documentary evidences to establish the role played by the 3rd and 4th accused. In fact the third accused had instructed the 4th accused to claim the refund of wharfage charges without the knowledge of the importer. Infact the importer never asked to refund the excess wharfage charges from Chennai Port Trust. He



further submits that the petitioner has filed these quash petitions with huge delay. Therefore, the quash petitions cannot be sustained and liable to be dismissed.

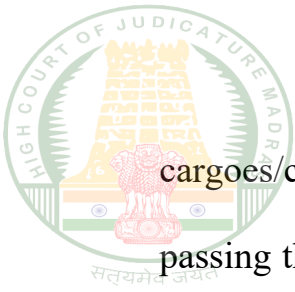
7. Heard Mr. B. Sathish Sundar, learned counsel appearing in Crl.O.P.No.18045 of 2025 and Mr. R. Rajarathinam, Senior counsel for Mr.S. Arunachalam in Crl.O.P.No.1872 of 2026 and MR. K. Srinivasan, learned Special Public Prosecutor appearing for the respondents.

8. There are totally four accused in which the petitioners herein are arrayed as A2 and A3. The second accused is a public servant and third accused is the manager of a licensed goods clearing and forwarding agency. The 4th accused is a import manager of the 3rd accused. Though the respondent after completion of investigation filed a final report as against A1 to A4, subsequently the sanction was not accorded to prosecute the first accused. The crux of the allegation is that the second and third accused claimed refund of excess wharfage charges on behalf of the importer. The said request was made before Chennai Port Trust on two occasions and the same were returned. Thereafter, the 3rd and 4th accused had prepared a forged and modified version of proforma invoice indicating seperate break up value for break bulk items details and container items details as if issued by the exporter. It was



recommended and forwarded by the second accused to the first accused. On verification of records, the first accused directed the 3rd respondent to get

breakup value of break bulk cargo and containerized cargo. On a perusal of records and also on the submissions made on either side reveals that on the request made by the third accused through the fourth accused a new file was opened in the name of the importer. The second accused has put up a note regarding the request sought for refund of excess wharfage charges under bill of entry dated 28.03.2017 and also mentioned that the claim sought for was thoroughly verified in ICES Portal system as desired and put up a note on 21.09.2017 for approval to the first accused. The first accused in turn had approved the said note and refunded the excess wharfage charges infavour of the 3rd accused and in turn the 3rd accused had paid the refund amount to the importer. Thereafter, it was found that there was no excess wharfage charges amount and as such requested the importer to return the same, on the said request the importer had returned the entire amount which was paid in favour of the importer as excess wharfage charges. Therefore, there is no loss to the exchequer and there is no gain to any accused. That apart the sanction was declined to prosecute the first accused who ordered to refund the excess wharfage charges. At this juncture the question arise for consideration is that whether the offences as alleged by the prosecution is made out as against the petitioners or not. The term “Wharfage charges” was defined under Chennai Port Trust, Scale of Rate, that the basic dues recoverable on all



cargoes/containers imported or exported or transported within the port limits or passing through the port whether the portage was provided by the port or not.

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It is collected for bulk and great bulk cargos. Insofar as machinery and equipments are concerned the machineries and equipments other than the items mentioned including electrical and electronical goods wires cables parts tools and accessories at the rate of 0.31%. That apart there is absolutely no evidence to show that the accused fabricated any documents to claim refund of excess wharfage charges. The quantum of goods as well as value of goods are one and the same. In fact the 3rd and 4th accused submitted proforma invoice claiming excess wharfage charges before the Chennai Port Trust and both were returned. Thereafter, with the same quantum of imported goods they claimed refund of excess of wharfage charges Therefore, no offence was made out as against the accused under sections 420, 468, r/w 471 of IPC and Section 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988

9. It is relevant to rely upon the judgment made by the Honourable Supreme Court of India in the case of *M/s. Indian Oil Corporation Vs. NEPC India Limited and others [(2006) 6 SCC 736]*, held that the civil liability cannot be converted into criminal liability and it is necessary to take notice of a growing tendency in business circle to convert purely civil dispute in criminal case. This is obviously on account of prevalent impression that civil law



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remedies are time consuming and do not adequately protect the interest of lender/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claim which do not involve any criminal offence by applying pressure through criminal prosecution should be deprecated and dishonoured.

10. In the case of ***G.Sagar Suri Vs. State of Uttar Pradesh [2000 (2) SCC 636]***, the Honourable Supreme Court of India held as follows:-

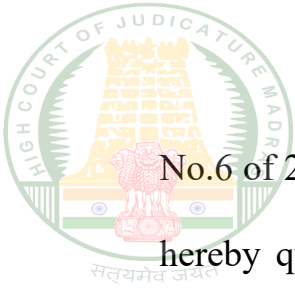
“It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence, criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal Court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

11. In view of the fact that the first accused was declined prosecution, the prosecution cannot be initiated as against the second and third accused who forwarded the invoice proforma claiming refund of excess wharfage charges.



That apart the amount which was paid to the importer now re-paid and there is no loss to the exchequer. Further the list of witness 3 stated that in the Form-P there are list of advances paid, deductions for damages or losses and fines for the period from May 2017 to May 2018 in which the 3rd accused is maintaining the register of advances paid deductions for damages and losses and fines towards their employees. The 4th accused was working as a import manager and he was paid salary by the 3rdaccused. Initially the 3rd and 4th accused claimed refund for wharfage charges from the second accused by a letter dated 21.09.2017. However, it was returned and as if subsequently split up value was obtained and based on the same they claimed refund of excess wharfage charges paid in respect of 22 containers. The importer had obtained split up value and provided the same to the 3rd accused and on the basis of the same the 3rd accused claimed refund of excess wharfage charges. Therefore, the claim was made with the knowledge of the importer which is also evident from the returning of excess wharfage amount which was paid to the importer. That apart now the cancellation of licence of 3rd accused agency was revoked now and 3rd accused is licensed to do clearing and forwarding services from the exporters to the importers.

12. Therefore, the prosecution as against the accused is nothing but a clear abuse of process of law and as such is liable to be quashed. Hence CC



No.6 of 2022 pending on the file of IX Special Judge for CBI Cases, Chennai is hereby quashed and these petitions are allowed. Consequently, the connected miscellaneous petitions are closed. Even though the 4th respondent did not file any petition to quash the proceedings before this Court, in the interest of justice the benefit granted to the A2 and A3 is also extended to A4.

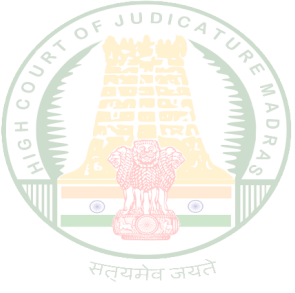
08-06-2026

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

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To.

- 1.The learned IX Special Judge for CBI Cases, Chennai
2. The Deputy Superintendent of Police,
Central Bureau of Investigation, SPE,
Anti-Corruption Branch, Chennai-600 006.
Tamilnadu.
3. The Public Prosecutor, High Court, Chennai



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CRL OP No. 18045 of 2



G.K.ILANTHIRAIYAN, J.

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**CRL OP Nos. 18045 of 2025 and 1872 of 2026
in
CrI.M.P.No.11843 of 2025 and 1237 of 2026**

08-06-2026