IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.06.2026

Pronounced on: 10.07.2026

CORAM:

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

Crl.O.P.Nos.35063 to 35066 of 2025 and
Crl.MP.Nos.24617, 24618, 24623, 24625, 24629, 24630,
24637 & 24638 of 2025

Crl.OP.No.35063 of 2025

1.Shaikh Mahaboob
2.M/s.Chemstar International Pvt Ltd.,
Rep. By its Managing Director Shaik Mahaboob,
Rukshan Apartments,
Old No.4, New No.7, Siva Sankar Street,
Kilpauk, Chennai ... Petitioners

Vs.

1.Central Bureau of Investigation(CBI),
Represented by the Inspector of Police,
Bank Securities & Fraud Cell,
Bangalore
2.The Assistant General Manager,
Union Bank of India,
Industrial Finance Branch,
No.139, 1st Floor, Broadway,
Chennai 600 108
(R2 suo motu impleaded as per order of this
Court dated 19.12.2025 in Crl.OP.Nos.35063,
35064 & 35065 and 35066 of 2025) ... Respondents

Prayer:

Criminal Original petition filed under Section 528 of BNSS, praying to call for the entire records pertaining to the proceedings in CC.No.2005 of 2025 on the file of the learned Additional Chief Metropolitan Magistrate Court, Egmore, Chennai arising out of FIR No.RC21/2018 and quash the said proceedings in their entirety as against the petitioners herein(Accused No.5 and Accused No.7)

For Petitioners : Mr.S.Elambharathi

For Respondents
For R1 : Mr.K.Srinivasan,
Senior Counsel,
Special Public Prosecutor (CBI)
For R2 : Mr.A.V.Arun

Crl.OP.No.35064 of 2025

Shaikh SK Chan Basha ... Petitioner

Vs.

1.Central Bureau of Investigation(CBI),
Represented by the Inspector of Police,
Bank Securities & Fraud Cell,
Bangalore
2.The Assistant General Manager,
Union Bank of India,
Industrial Finance Branch,
No.139, 1st Floor, Broadway,
Chennai 600 108
(R2 suo motu impleaded as per order of this
Court dated 19.12.2025 in Crl.OP.Nos.35063,
35064 & 35065 and 35066 of 2025) ... Respondents

Prayer:

Criminal Original petition filed under Section 528 of BNSS, praying to call for the entire records pertaining to the proceedings in CC.No.2005 of 2025 on the file of the learned Additional Chief Metropolitan Magistrate Court, Egmore, Chennai arising out of FIR No.RC21(E)/2018 and quash the said proceedings in their entirety as against the petitioner herein(Accused No.4)

For Petitioner : Mr.K.Suresh Kumar,
for Mr.M.Vijayamehanath
For Respondents
For R1 : Mr.K.Srinivasan,
Senior Counsel,
Special Public Prosecutor (CBI)
For R2 : Mr.A.V.Arun

Crl.OP.No.35065 of 2025

Shaikh Abdul Aziz ... Petitioner

Vs.

1.Central Bureau of Investigation(CBI),
Represented by the Inspector of Police,
Bank Securities & Fraud Cell,
Bangalore
2.The Assistant General Manager,
Union Bank of India,
Industrial Finance Branch,
No.139, 1st Floor, Broadway,
Chennai 600 108
(R2 suo motu impleaded as per order of this
Court dated 19.12.2025 in Crl.OP.Nos.35063,
35064 & 35065 and 35066 of 2025) ... Respondents

Prayer:

Criminal Original petition filed under Section 528 of BNSS, praying to call for the entire records pertaining to the proceedings in

CC.No.2005 of 2025 on the file of the learned Additional Chief Metropolitan Magistrate Court, Egmore, Chennai arising out of FIR No.RC21(E)/2018 and quash the said proceedings in their entirety as against the petitioner herein(Accused No.3)

For Petitioner : Mr.P.H.Manoj Pandian

For Respondents
For R1 : Mr.K.Srinivasan,
Senior Counsel,
Special Public Prosecutor (CBI)
For R2 : Mr.A.V.Arun

Crl.OP.No.35066 of 2025

1.Shaik Abdul Jaleel
2.M/s.Star Aqua International Pvt Ltd.,
Represented by its Managing Director
Shaik Abdul Jaleel,
No.24, B-Block, Ground Floor, 47, Landon Road,
Landon Towers, Kilpauk, Chennai-10 ... Petitioners

Vs.

1.Central Bureau of Investigation(CBI),
Represented by the Inspector of Police,
Bank Securities & Fraud Cell,
Bangalore
2.The Assistant General Manager,
Union Bank of India,
Industrial Finance Branch,
No.139, 1st Floor, Broadway,
Chennai 600 108
(R2 suo motu impleaded as per order of this
Court dated 19.12.2025 in Crl.OP.Nos.35063,
35064 & 35065 and 35066 of 2025) ... Respondents

Prayer:

Criminal Original petition filed under Section 528 of BNSS, praying to call for the entire records pertaining to the proceedings in CC.No.2005 of 2025 on the file of the learned Additional Chief Metropolitan Magistrate Court, Egmore, Chennai arising out of FIR No.RC21/2018 and quash the said proceedings in their entirety as against the petitioners herein(Accused No.2 & 6)

For Petitioners	: Mr.Abdul Saleem, Senior Counsel for Mr.M.Vijayamehanath
For Respondents	
For R1	: Mr.K.Srinivasan, Senior Counsel, Special Public Prosecutor (CBI)
For R2	: Mr.A.V.Arun

COMMON ORDER

These criminal original petitions have been filed praying to quash the proceedings in CC.No.2005 of 2025 on the file of the learned Additional Chief Metropolitan Magistrate Court, Egmore, Chennai arising out of FIR No.RC21/2018.

2. The case of the prosecution is that the first accused is the company i.e.M/s.Star Agro Marine Exports Pvt.Ltd. and the second accused is the Managing Director of the first accused. The third accused is the Director of the first accused. The fourth accused is the Managing Partner of M/s.SK Chan Basha & Co. A5 is the partner of M/s.JK

Fisheries and Managing Director of M/s.Chem Star International Pvt.Ltd.. A6 is a company represented by its Managing Director/A2. A7 is also a company represented by A5 as its Managing Director. They conspired together during the period 2012-2018 to cheat the complainant bank, fraudulently availed various credit facilities by making false representations and also by submitting fabricated, falsified and grossly inflated financial statements and stock and receivables statements and false sales and purchase invoices. Further, they deliberately diverted the loan funds for purposes other than those for which the facilities were sanctioned thereby causing a wrongful loss to the complainant to the tune of Rs.284.84 crores and a corresponding wrongful gain to themselves. The first respondent registered FIR on the complaint lodged by the second respondent in RC21/2018 for the offences punishable under Sections 120(b) r/w 420, 420 of IPC and other substantive offences thereof. After completion of investigation, final report was filed and the same was taken cognizance by the trial court in CC.No.2005 of 2025 on the file of the learned Additional Chief Metropolitan Magistrate Court, Egmore, Chennai and it is pending for trial. While pending trial, the accused have filed these petitions to quash the entire proceedings on various grounds.

3. The learned counsels appearing for the petitioners submit that the allegations did not prima facie disclose any offence as alleged by the prosecution. It is a complete commercial transaction and civil dispute. In order to give criminal colour to the civil dispute, with malafide intention, complaint was lodged. Even according to the complainant, the first accused was classified as non performing asset on 31.03.2016 due to severe marketing issue and loss of stock due to unprecedented and unexpected floods in the year of 2015 in Nellore. Therefore, the accused could not repay the loan amount. However, the matter was converted into criminal offence. Immediately after classifying the first accused company as non performing asset, the complainant initiated Corporate Insolvency Resolution Process before National Company Law Tribunal. Thereafter, Resolution Plan was submitted by M/s.Seelam Infra Developers Private Limited and the same was approved by the defacto complainant. After approval of the Resolution Plan, the defacto complainant had also issued No Due Certificate on 16.03.2020 stating that there are no dues payable by the corporate debtor. Therefore, the entire issue was settled and dues were paid. Hence, initiation of criminal case is nothing but abuse of process of law. Further, in order to attract the offence under Section 420 of IPC, there must be a dishonest intention to cheat at the very inception of the transaction. Even according to the defacto complainant, there had

been business transactions between the accused and the defacto complainant for more than 20 years i.e. from the year 1998. During the transaction, the accused had repaid over hundreds of crores to the defacto complainant. The default solely occurred due to the flood and global market failure. Therefore, the offence under Section 420 of IPC is not at all made out against the accused. Further, under Section 32A of Insolvency and Bankruptcy Code, the corporate debtor ceased to be liable for any offence prior to the commencement of Corporate Insolvency Resolution Process. Therefore, the defacto complainant is estopped from pursuing criminal prosecution.

3.1 The learned counsels for the petitioners further submitted that breach of contract would not give rise to an offence of cheating and it does only in those cases where there was deception at the very inception. If the intention to cheat developed later on, then the same cannot amount to cheating. Further, the allegations regarding breach of trust and forgery are essentially civil disputes regarding loan repayment and stock valuation. There is absolutely no proof or evidence regarding commission of the alleged offences.

4. On perusal of the counters and objections filed by the respondents and also on the submissions of the learned counsels for the respondents, it is revealed that, the crux of the allegations is that all the accused conspired together in order to cheat the defacto complainant, fraudulently availed various credit facilities by making false representations and also by submitting fabricated, falsified and grossly inflated financial statement. They also produced inflated stock and receivables statements with false sales and purchase invoices. Believing those documents, the defacto complainant sanctioned financial credit facilities to the accused. Thereafter, the accused failed to repay the said amount thereby causing wrongful loss to the defacto complainant to the tune of Rs.284.84 crores and correspondingly wrongful gain to themselves. Admittedly, the accused availed various financial credit facilities from the defacto complainant from the year 1998. From the year 2016, the accused committed default in repayment of loan due to loss of stock due to unprecedented floods in the year of 2015 in Nellore and also due to sudden market crisis and price fluctuation in their business. Thereafter, the account of the first accused became non performing asset and the defacto complainant banker proceeded against the accused to recover the loan amount which was availed by the accused by various credit facilities. Thereafter, the first accused had given a proposal for

restructuring the account. Thereafter, the defacto complainant initiated Corporate Insolvency Resolution Process before National Company Law Tribunal, Chennai in CP.No.668 of 2017. Thereafter, a resolution plan was submitted by M/s.Seelam Infra Developers Limited and the same was duly approved by the Committee of Creditors on 01.10.2018 with 100% voting share. The defacto complainant constituted 95.35% of vote share and expressly approved the plan. Thereafter, National Company Law Tribunal, Chennai by order dated 11.03.2019 in MA.No.520 of 2018 approved the resolution plan as contemplated under Section 31 of Insolvency and Bankruptcy Code. In fact, the Committee of Creditors voted in favour of the resolution plan to settle the accounts of the accused. Thereafter, the defacto complainant lodged complaint. In fact, after approval of the resolution plan, the defacto complainant also issued No Due Certificate dated 16.03.2020 to the accused stating and confirming that there are no dues payable by the corporate debtor. It shows that the entire issue was already settled since all the dues were settled. But the specific stand of the defacto complainant is that though No Due Certificate was issued in the resolution plan, it was issued without prejudice to the rights to proceed against the guarantors and the mortgagors for recovering the outstanding balance. Admittedly, the defacto complainant had received the share of Rs.45.86 crores and issued no due certificate. That apart, the defacto complainant also proceeded against the guarantors and mortgagors before the Debt Recovery Tribunal-I, Chennai in TA.No.76 of 2022 and obtained recovery certificate in DRC.No.3 of 2025 for the recovery of Rs.628.15 crores as on 27.02.2025.

5. The learned Special Public Prosecutor(CBI) vehemently contended that though it is a commercial transaction, the accused committed serious default in repaying the loan amount and cheated the public fund to the tune of Rs.284.84 crores. Therefore, though the defacto complainant initiated proceedings against the guarantors and mortgagors, there is no bar to proceed with the criminal prosecution against the accused. In support of his contention, he relied upon the judgment of the Hon'ble Supreme Court of India rendered in Crl.A.No.661 of 2009 in the case of ***Rumi Dhar Vs. State of West Bengal*** dated 08.04.2009, wherein it was held that civil proceedings and criminal prosecution can proceed simultaneously and that the existence of civil remedies does not bar criminal action where the ingredients of the criminal offences are made out. He also relied upon the judgment of the Hon'ble Supreme Court of India rendered in the case of ***CBI Vs. Maninder Singh*** reported in ***(2016) 1 SCC 389***, wherein it is held that in economic offences, Court must keep

in view that it is not only the money of the bank which has been defrauded but it is also the money of the society at large. It is not a case of simple assault or a theft of a trivial amount; but the offence with which we are concerned is well-planned and was committed with a deliberate design with an eye of personal profit regardless of consequence to the society at large. To quash the proceeding merely on the ground that the accused has settled the amount with the bank would be a misplaced sympathy. If the prosecution against the economic offenders are not allowed to continue, the entire community will be aggrieved.

6. The learned Special Public Prosecutor(CBI) further placed reliance on the judgment of the Hon'ble Supreme Court of India in the case ***CBI v. Sarvodaya Highways Ltd.,*** arising out of Criminal Appeal (SLP) No.11108 of 2022, wherein the Hon'ble Supreme Court of India reiterated the settled legal position that economic offences, particularly those involving bank fraud and diversion of public funds, constitute serious crimes not only against bank but also against society. Further, it was held as follows:

> *"25. There are plethora plethora of judgments of this court, which categorically holds that in cases involving economic offences, it is not merely the Bank that stands defrauded, but the society at large is also impacted.*

26. It can be said without a shadow of doubt that the one-time settlement would not fetch the entire amount to which the Bank was otherwise entitled. One-time settlements are, as a rule, effected under circumstances where the Bank under duress is compelled to accept lesser amount in order to secure the maximum possible recovery against the defaulting account."

7. However, the above judgments are not applicable to the case on hand for the simple reason that admittedly it is a commercial transaction between the accused and the defacto complainant. The accused availed various credit facilities from the defacto complainant from the year 1998. Till 2016, they repaid the loan amount to the tune of hundreds of crores and only from the year 2016, they committed default in payment of loan amount. It is well settled that in order to bring home the charge for the offence under Section 420 of IPC:

(i)the accused must have fraudulently or dishonestly made some false compromise.

(ii)the defacto complainant must have acted on the strength of such false representation or compromise.

8. In the case on hand, the petitioners neither made any dishonest nor any fraudulent representation. Therefore, the offence under Section 420 of IPC is not at all made out as against the petitioners.

9. Further, though the first respondent filed final report for the offences under Section 120(b) r/w 420 & 420 of IPC, the trial court while taking cognizance stated that since no evidence related to the forgery was found, therefore the prosecution itself did not invoke charges under Section 468 and 471 of IPC. Thus it is clear that the settled position of law is that every breach of contract would not give rise to offence of cheating and it is only in those cases where there was deception at the very inception. If the intention to cheat has developed later on, the same cannot amount to cheating. Therefore, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation. In the case on hand, admittedly the accused had banking transaction with the defacto complainant from the year 1998. Further, they had repaid more than hundreds of crores of rupees after availing several credit facilities. Only from the year 2016, they committed default in repayment of the loan amount due to various reasons. That apart, now the entire dues have been paid to the banker and they were also issued no due certificate. That apart, they also initiated proceedings before Debt Recovery Tribunal-I, Chennai and obtained recovery certificate to the tune of Rs.628.15 crores. Therefore, there is nothing to show that at the time of very inception, there was an intention on the part of the accused to cheat the defacto complainant bank which is

a condition precedent to attract the offences under Section 420 of IPC. Further, after invoking Insolvency and Bankruptcy Code before National Company Law Tribunal, the defacto complainant ought not to have initiated criminal proceedings against the accused. After accepting the proposal and approval and after issuance of No Due Certificate stating that there are no dues payable by the corporate debtor, the initiation of criminal proceedings is nothing but clear abuse of process of law. Further, the defacto complainant is also estopped from pursuing the criminal proceedings after they voted for accepting Resolution Plan on 01.10.2018 and accepted the settlement amount under Corporate Insolvency Resolution Process.

10. In view of the above discussion, the impugned proceedings is liable to be quashed. Accordingly, the entire impugned proceedings is quashed and all the criminal original petitions stand allowed. Consequently, connected miscellaneous petitions are closed.

10.07.2026

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.The learned Additional Chief Metropolitan Magistrate Court, Egmore, Chennai
2.Central Bureau of Investigation(CBI),
Represented by the Inspector of Police,
Bank Securities & Fraud Cell,
Bangalore
3.The Assistant General Manager,
Union Bank of India,
Industrial Finance Branch,
No.139, 1st Floor, Broadway,
Chennai 600 108
4.The Public Prosecutor,
High Court of Madras

Crl.O.P.Nos.35063 to 35066 of 2025

10.07.2026