IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	09.07.2026
Pronounced on	16.07.2026

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.29515 of 2025
and
Crl.M.P.No.20096 of 2025

1.Ashok Muthana,
S/o.Late M.S.Muthana

2.Ramkumar,
S/o.N.Kaliyamurthy … Petitioners

Vs.

1.The State Represented by
The Inspector of Police,
Central Bureau of Investigation (CBI),
Bank Securities & Fraud Cell (BS &FC),
Bangalore-560 032.

2.The Official Liquidator,
High Court of Madras,
Chennai-600 104. … Respondents

Prayer: Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to allow the postponement of trial in CC No.77 of 2007 on the file of the learned Additional Chief Metropolitan Magistrate at Egmore, Chennai until the documents summoned under Section 91 are produced and defer the summoning of further witnesses, adjourn the hearing till the issues are raised are resolved and set aside the order passed in Crl.R.C.No.144 of 2023 by the I Additional Sessions Judge (TADA), City Civil Court, Chennai.

For Petitioners	:	Mr.C.Manishankar Senior Counsel for Mrs.L.Maithili
For Respondents	:	
For R1	:	Mr.B.Mohan Special Public Prosecutor (CBI)
For R2	:	Mr.V.Chandrasekaran Senior Panel Counsel

ORDER

This Criminal Original Petition has been filed as against the order passed in Crl.R.C.No.144 of 2023 on the file of the I Additional Sessions Judge (TADA), City Civil Court, Chennai dated 25.06.2025 and thereby dismissed the criminal revision case and confirmed the order passed in Crl.M.P.No.39973 of 2022 in C.C.No.77 of 2007 on the file of the Additional Metropolitan Magistrate, Egmore, Chennai, thereby dismissed the Petition filed under Section 309 of the Code of Criminal Procedure, 1973 to defer the summoning of further witnesses.

2. The Petitioners are accused in C.C.No.77 of 2007 and are facing charges for the offences punishable under Section 120B read with Sections 420, 467, 468 and 471 of the Indian Penal Code, 1860. They received the copies of documents along with charge sheet in compliance of the provision under Section 207 of the Code of Criminal Procedure, 1973. However, the vital documents were neither considered by the 1st Respondent nor were seized during investigation. The Official Liquidator has sealed the premises of M/s.Fidelity Industries Limited on 14.06.2001 as ordered by this Court in C.P.Nos.526 and 139 of 2000 and took possession of all the documents of the Company.

3. Therefore, the Petitioners are handicapped to defend themselves bereft of important documents. Therefore, while pending trial, the Petitioners filed Petitions in Crl.M.P.Nos.1317 and 1318 of 2012 to call for the documents listed in the Petition filed under Section 91 of the Code of Criminal Procedure, 1973, from the Official Liquidator who was in custody of the documents seized from the Company as well as the IDBI Bank, the defacto complainant.

4. The Trial Court passed order under Section 91 of the Code of Criminal Procedure, 1973, summoning both the Official Liquidator and the IDBI Bank to produce all those documents sought for by the Petitioners. However, the Official Liquidator expressed its inability to produce most of the documents which were summoned by the Trial Court. Further, the IDBI, claims that all the documents in their possession were handed over to Stressed Assets Stabilization Fund (SASF).

5. Therefore, the Petitioners have filed another application in Crl.M.P.No.1149 of 2013, to summon the documents from SASF which was allowed by the Trial Court. Thereafter, on 20.11.2023, the Assistant General Manager of SASF has claimed that except one document they do not have other documents which were claimed by the Petitioners. Therefore, the Petitioners filed a Petition under Section 309 of the Code of Criminal Procedure, 1973 in Crl.M.P.No.39973 of 2022, to defer summoning of further witnesses till the issues raised in the Petitions were resolved.

6. On perusal of the report submitted by the Official Liquidator, it is stated that the documents which were summoned to be produced are not available and those documents were handed over to SASF.

7. Therefore, the Petition filed by the Petitioners was closed for the reason that the documents which are called for by the Petitioners are not in the custody of SASF.

8. Thereafter, the prosecution had examined PW1 to PW30 out of 108 witnesses and Ex.P1 to Ex.P201. At the time of summoning other witnesses, the Petitioners filed the said Petition to defer summoning of further witnesses. Those Miscellaneous Petitions were filed in the year 2012-2013 and the issues were already settled before the Trial Court. Thereafter, after having been kept quite, till the examination of PW1 to PW30 out of 108 witnesses in the year 2002 i.e., after a period of nine years, the Petitioners have chosen to file a Petition to defer the summoning of further witnesses for want of documents which were called for by the Petitioners in the year 2012. The Petitioner sought for the following documents before the Trial Court:-

"A. Statement of Affairs made by M/s.Fidelity Industries

Limited as per Section 434 of the Companies Act, 1956.

B. Report of the Official Liquidator pertaining to M/s.Fidelity Industries Limited as per Section 455 of the Companies Act, 1956.

C. Books of M/s.Fidelity Industries Limited kept under Section 209 of the Companies Act, 1956.

S.No.	Document Name/Particulars	Period	Details of Document
1.	Cash Day Book	July 99/Aug 99	Cash Receipt from Mrs.Wheeler
2.	Daily Cash Register	Aug 1999	---
3.	Indian Bank Correspondence file	1999-2000	The Correspondence between FIL and Indian Bank
4.	Register of Charge	1999-2000	Entries for forms filed with Registrar of Companies for the Loans availed by FIL
5.	Registrar of Companies file	1990-2001	Form Nos.8, 10
6.	Bank day book	1998-2001	Entries for transaction with Indian Bank
7.	Letter to Indian Bank attaching additional collateral security from Mr.Ashok Muthana	1999-2000	Details of properties offered as collateral to Indian Bank to regularize the overdraft
8.	File containing Property documents sainik forms	1999-2000	Details of Properties offered as collateral to Indian Bank to regularize the overdraft
9.	General Ledger Indian Bank Packing Credit Account	1996-2001	Details of Credits allowed by Indian Bank
10.	General Ledger Indian Bank F8P/F8N	1996-2001	Details of foreign bills purchased by Indian Bank

11.	General Ledger Indian Bank overdraft	1999-2001	Details of overdraft allowed and accounted in the books of the company
12.	Indian Bank Loan Application File	1999-2000	Details of request for additional limit to be sanctioned by IB
13.	Indian Bank Account Statement	1996-2001	Details of debit and credit into IB
14.	Indian Bank advise File	1996-2001	Details of debit allowed by IB
15.	Statement of collection proceeds from sale of Sainik Form New Delhi collateral Security offered by Mr.Ashok Muthana as required by Indian Bank to cover file additional duty	2000 to till date	Details of stabilization of funds from sale of property at New Delhi which was offered as collateral security to Indian Bank

9. However, the following documents alone were stated to be available with the office of the Official Liquidator. The said documents are as follows:-

S.No.	**Details of Documents**
1.	Statement of Affairs made by M/s.Fidelity Industries Limited as per Section 454 of the Companies Act, 1956
2.	Report of the Official Liquidator pertaining to M/s.Fidelity Industries Limited (In Liqn) as per Section 455 of the Companies Act, 1956
3.	Form No.18 dated 16.09.1998
4.	Balance Sheet as on 30.09.2000

5.	Form No.32
6.	Form No.8 and Particulars of charge created by S.B.I
7.	Form No.8 and Particulars of charge created by Apple Finance Credit Corporation Limited
8.	Form No.8 and Particulars of charge created by Apple Credit Corporation Limited
9.	Form No.8 and Particulars of charge created by LIC Housing Finance Limited
10.	Form No.8 and Particulars of charge created by United Western Bank Limited
11.	Form No.8 and Particulars of charge created by Infrastructure Leasing and Financial Services Limited
12.	Form No.8 and Particulars of charge created by Times Bank Limited
13.	Form No.8 and Particulars of charge created by Punjab and Sind Bank Limited
14.	Form No.8 by Indian Bank
15.	Form No.8 by Industrial Investment Bank of India
16.	Form No.8 by Allahabad Bank
17.	Form No.8 by UTI Bank

10. Apart from the above documents, the Official Liquidator had also stated that on verification from the documents available in the Godown, the following records were found available in the possession of the Official Liquidator:-

Sl.No.	Name of the Document	Period	Available with OL (Number

			of pages)
1.	Punjab & Sind Bank Statement and Advice File (Correspondence File)	1996 to 2001	Voluminous
2.	Share Holder Correspondence File	---	18 pages
3.	Banker Meetings Minutes File	---	42 pages
4.	Cash Voucher File	---	66 pages
5.	Stock Statement	1999	30 pages
6.	Un-Audited Results File	1999-2000	55 pages
7.	Trial Balance File	1999	30 pages
8.	Factory Invoice File	1998-1999	239 pages
9.	Bank Statement File	1998-1999	43 pages
10.	Factory Weekly Meeting File	---	60 pages
11.	DTA Invoice File	---	107 pages
12.	CST Sale Invoice File	1993-1994	60 pages
13.	Debit Note File	2001	32 pages
14.	KVB Correspondence File	1999	45 pages
15.	Agreement File	---	40 pages
16.	Form No.20 File	2000	10 pages
17.	Statistics File	---	70 pages
18.	Invoice File	1998	157 pages
19.	General Ledger File – Vijaya Bank	---	76 pages
20.	Un-Audited Results File	1996-1997	70 pages
21.	TDS not Deducted Register	1994-1995	203 pages
22.	Committee Meeting	1994-1995	55 pages

	Register		
23.	Cash Day Book	1995	109 pages
24.	Cash Book Register	1998-1999	57 pages
25.	Cash Payment Voucher	March-1999	53 pages
26.	Cheque Payment Voucher	1998-1999	40 pages
27.	Journal Voucher	2000	89 pages
28.	Expenditure Invoice Book	1998-1999	60 pages
29.	Statutory Register	1995-1996	43 pages
30.	Bank Payment Voucher-IB	1998	50 pages
31.	Cheque Voucher Book	1990	15 pages
32.	Cash Voucher Book	1997	70 pages
33.	PBS (Old Book Purchase Bill)	1994	48 pages
34.	Cheque Payment Voucher	1997	107 pages
35.	Purchase Journal Book	1997	57 pages
36.	Cheque Voucher Book	1990	47 pages
37.	Cash Voucher Book	1997	59 pages
38.	Bank Payment Voucher-UBI/MDU	2000	69 pages
39.	General Ledger	1998-1999	200 pages
40.	PS-Imports Book	1999	41 pages
41.	Cash Voucher Book	1995	52 pages
42.	Cash Payment Voucher	1998	47 pages
43.	Cash Payment Voucher	1996	106 pages
44.	Cash Payment Voucher	1998	57 pages
45.	Cash Payment Voucher	1996	110 pages
46.	Purchase Bill Book	1998	157 pages

47.	Cash Voucher Book	2000	64 pages
48.	Cheque Payment Voucher Vijaya Bank	1996-1997	76 pages
49.	Cheque payment Voucher	1996	40 pages
50.	Cash Payment Voucher	2000	82 pages
51.	General Ledger	1996 to 2001	Voluminous
52.	Bank Day Book	1998	Voluminous

11. In view of the above, the 2nd Respondent is directed to produce the copy of available documents sought for by the Petitioners before the Trial Court within a period of two weeks from the date of receipt of a copy of this order.

12. On receipt of the same, the Trial Court is directed to furnish those documents sought for by the Petitioners and forthwith proceed with the trial.

13. With the above directions, this Criminal Original Petition is disposed of. Connected Criminal Miscellaneous Petition is closed.

16.07.2026
(1/2)

Neutral Citation: Yes / No

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To:

1.The Additional Chief Metropolitan Magistrate,
Court of Additional Chief Metropolitan Magistrate,
Egmore,
Chennai-600 008.

2.The I Additional Sessions Judge (TADA),
City Civil Court,
Chennai-600 104.

3.The Inspector of Police,
State of Karnataka,
Central Bureau of Investigation (CBI),
Bank Securities & Fraud Cell (BS &FC),
Bangalore-560 032.

4.The Official Liquidator,
High Court of Madras,
Chennai-600 104.

5.The Public Prosecutor,
High Court of Madras,
Chennai-600 104.

G.K.ILANTHIRAIYAN, J.

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