

**IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]**

Present:

The Hon'ble Justice Biswaroop Chowdhury

C.R.R. 24 of 2026

Reddy Investments Pvt. Ltd and another

VERSUS

The Union Territory of Andaman and Nicobar Islands and others

For the petitioner:

Mr. Manas Ajai Sonkar, Adv.

Last Heard on: September 07, 2026

Judgment on: September 24, 2026

Biswaroop Chowdhury, J:

The petitioner before this Court was a complainant in an application under Section 223(1) of the BNSS, 2023 and is aggrieved by the Order dated 14-08-2025 passed by Learned Sessions Judge Andaman and Nicobar Island Port Blair in Criminal Revision No-4 of 2025 by which order dated 18-02-2025 passed by Learned Chief Judicial Magistrate Port Blair in CR Case No-147 of 2024 was affirmed.

The case of the petitioners before the Learned Magistrate under Section 223 of BNSS 2023 may be summed up thus:-

1. As per deed of assignment dt. 14/09/2023 M/S. Indo Aquaties assigned the sale certificate to petitioner/complainant no-1 to dispose all the plants and machineries electrical and scrap materials and generators and other heavy equipments lying within the compound of the erstwhile M/S Surya Chakra Power Corporation at Bamboo flat.
2. That for the purpose of smooth handling of the scrap materials one Mr. Sayyed Iqbal Hussain S/O. Mr. Talib Hussain was engaged to supervise the dismantling and to do all kinds of jobs on 13/07/2023 and the said authorization was subsequently cancelled on 07/10/2024 and the same was accepted by Sayyed Iqbal Hussain on 10/10/2024.
3. The opposite parties/accused persons no-2, 3 4, and 5 are the employees of M/S Jain Industrial Corporation and its associate concern M/S City Power solutions Ltd. Bangalore.
4. For the purpose of exporting the scrap materials from Sri Vijaya Puran to mainland 8 nos. of Tax invoices dated-24/09/2024 was raised in favour of M/S city power solutions were able to export the scrap materials to mainland from 24/09/2024, to 08/10/2024 amounting to Rs. 52 Lakh plus GST. Approx 134 MT. For the purpose of exporting the scrap materials from Sri Vijaya Puran to mainland 8 nos. of Tax Invoices dated 24/09/2024 was raised in favour of MS City Power Solutions for exporting approx 134 MT of the scrap materials by the complainants. On the basis of 8 nos. of Tax invoices

- raised the opposite parties were able to export the scrap materials to mainland from 24/09/2024, to 08/10/2024 amounting to Rs. 52 lakhs plus GST approx 134 MT.
5. The representative of the complainants one Shri B. Suresh Babu who happens to be camping at Banbooflat, Andaman and Nicobar Island found on 10th/11th October 2024 that the key component/scrap materials were exported/shipped from Haddo Jetty/wharf through one private shipping firm M/S/ Shakti Shipping Company Ltd. without any GST/Tax Invoice being issued by the complainants and without the permission of the complainants or the representative Shri B. Suresh Babu.
 6. An approx 1065 MT. of heavy equipments/scrap materials have been exported from Sri Vijaya Puran to Chennai/Kolkata, without the payment being made to the complainants and without the knowledge or permission from the representative namely B. Suresh Babu, by using some fake/false GST/Tax Invoice and thereby caused a loss of Rs. 2,45,00,000/- plus applicable taxes to the complainants and to the state.
 7. The opposite parties/accused persons with common intention and with common knowledge have illegally exported the scrap materials approx 1065 MT without paying any money and by using some fake/false/forged GST/Tax Invoice and thereby

misappropriated/stolen the said materials for gain and causing loss to the complainant.

In the complaint to Police Authority the petitioners contended as follows:-

‘5. At the request of the City Power Solutions we raised 8 Nos. tax invoices for 134 MT approx on 24-09-2024. (Statement enclosed as Annexure D)

6. When we tried to contact the logistics agent shipping agent they are not cooperating and giving the details. For this we deputed Mr. B. Suresh Babu our Director of our company to find out the factual situation but he could not be able to get the assistance as all the above are seem to be colluded along with some shipping companies and stolen the goods/transshipped to either Kolkata/Chennai without proper invoice or shipping invoices.

7. So we request you to trace out the balance 1065 MT of Scrap material where it is located who are the culprits and recover the material and do the justice to. us and the state to recover the proper GST’

Learned Chief Judicial Magistrate Port Blair was pleased to reject the petition of complaint by observing and directing as follows:-

‘On perusal of report and relevant document submitted by SHO, it appears that no cognizable case has been made out by the complainant for which order can be passed to SHO for Chalking FIR as per the

provision Section 173(3) of BNSS Act 2023 and in the instant complaint is totally fabricated complaint.

Hence the petition filed by the complainant under Section 173(3) of BNSS Act 2023 is rejected.'

The petitioner being aggrieved by the order passed by the Learned Magistrate preferred a revisional application before Learned Sessions Judge Andaman and Nicobar Islands being Criminal Revision No. 4 of 2025 which was also dismissed.

Being aggrieved by the Orders passed by Learned Chief Judicial Magistrate and Learned Session Judge the petitioner has come up with the application under Article 227 of the Constitution of India.

Heard Learned Advocate for the petitioner and Learned Advocate for the respondent no-1 Union Territory of Andaman and Nicobar Island. Perused the materials on record.

Learned Advocate for the petitioner submits that the Learned Magistrate and Learned Sessions Judge erred in refusing to exercise power under Section 175(3) in directing Police Authority to conduct investigation. Learned Advocate further submits that Police Authority cannot go into the genuineness of complaint while registering FIR. Learned Advocate also draws attention to the averments of the petition of

complaint before Learned Magistrate and submits that the contentions disclose about commission of offence.

Learned Advocate relies upon the following Judicial decisions:-

Indian Oil Corporation VS NEPC INDIA LTD. AND OTHERS

Reported in (2006) 6 SCC. 736.

Learned Advocate for the opposite party no-1 Andaman and Nicobar Island Administration submits that the complaint does not disclose any offence thus the Learned Trial Judge rightly refused registration of FIR.

Upon hearing the Learned Advocates and considering the facts of the case and the judicial decision relied upon it is clear that even if Civil remedy is available for breach of contract but there is also remedy under Criminal law if offence is committed. In the instant case as per the complaint the allegations against the opposite party no-2 to 5, are with regard to theft of material and criminal misappropriation. Although as per Preliminary Investigation report sale was made as per contract but there is no material to show accounting of the sale proceeds and handing over the same to the petitioners. The petition of complaint makes specific allegation against the opposite party no-2 to 5. The sale proceeds involve huge amount. Necessary co-operation in furnishing report/accounts is lacking in opposite party no-2 to 5 which creates suspicion. Thus on the

basis of allegation in complaint against opposite parties unless investigation is made and the accused/opposite parties are interrogated and relevant documents are verified the truth may not come out. Thus the prayer of the petitioner to direct Police Authority to register FIR should be allowed.

Hence this application under Article 227 of the Constitution of India being CRR 24 of 2026 stands allowed. The Judgment and Order dated 18.02.2025 passed by Learned Chief Judicial Magistrate Port Blair in CR Case No. 147 of 2024 and Judgment and Order dated 14.8.2025 passed by Learned Sessions Judge Andaman and Nicobar Island Port Blair in Criminal Revision No. 4 of 2025 are set aside. The Station Head Officer of – Police Station Bambooflat Andaman and Nicobar Island is directed to register an FIR and proceed against the opposite parties no. 2 to 5/accused persons in accordance with law. It is hereby made clear that coercive steps shall not be taken against the accused persons/opposite party no. 2 to 5 without leave of the Magistrate.

The petitioners shall serve copy of this application to Station Head Officer P.S. Bambooflat. Andaman and Nicobar Island for necessary steps.

Urgent photostat certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Biswaroop Chowdhury, J.)