



*Crl.O.P. (MD) .Nos.15468 to 15471 of 2015\_*

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 13.12.2019**

**CORAM:**

**THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR**

**Crl.O.P. (MD) .Nos.15468 to 15471 of 2015**

**and**

**Crl.M.P. (MD) .Nos.1, 1, 1 and 1 of 2015**

M/s. Iswari Spinning Mills,  
Through its Proprietor P.Senthilkumar,  
Sullerumbu Post, Athoor Taluk,  
Dindigul District, represented by his Power  
Agent P.Muthukumar ...Petitioner / Petitioner / Complainant  
in all Petitions

**Vs.**

1.Sindhu Fashion through its Proprietor,  
K.Ramsuresh,  
1/1, Pallakattu Thotttam,  
Karuppagoundampalayam,  
Veerapandi Post,  
Tirupur-641 605.

2.K.Ramsuresh ...Respondents / Respondents / Accused  
in all Petitions

**COMMON PRAYER:** Criminal Original Petitions are filed under Section 482 of the Criminal Procedure Code, to set aside the orders dated 14.07.2015 passed in Cr.M.P.Nos.3837, 3836, 3838 and 3835 of 2015 in C.C.Nos.5, 6, 7 and 8 of 2009 by the Judicial Magistrate No.II, Dindigul.

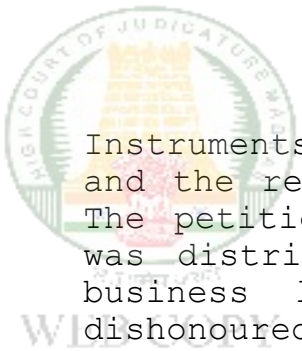
For Petitioner : Mr.S.Anand Chandrasekar  
for M/s.Sarvabhuman Asso.

For R-1 & R-2 : Mr.J.Jeyakumaran  
(in all Petitions)

**COMMON ORDER**

These Criminal Original Petitions are filed to set aside the orders dated 14.07.2015, made in Cr.M.P.Nos.3837, 3836, 3838 and 3835 of 2015 in C.C.Nos.5, 6, 7 and 8 of 2009, by the learned Judicial Magistrate No.II, Dindigul.

**2.** The petitioner is the complainant in C.C.Nos.5, 6, 7 and 8 of 2009 and the respondents are the accused. The second respondent is the proprietor of Sindhu Fashion / first respondent. The private complaints for the offence under Section 138 of the Negotiable



Instruments Act have been filed by the petitioner. The petitioner and the respondents were having business transaction between them. The petitioner / firm was manufacturing and supplying yarn, which was distributed and sold by the respondent, in discharge of the business liability, respondent had issued cheques, which got dishonoured.

3. The trial in these cases are at penultimate stage. When the cases were posted for judgment on 01.07.2015, the petitioner / complainant filed petitions to re-open the cases and to examine and summon the Commercial Tax Officer, for producing the sales tax returns documents of the petitioner. The trial Court by common order dismissed the applications on the ground that the applications have been filed after an inordinate delay of four years. Aggrieved over the same, the present Criminal Original Petitions have been filed.

4. The respondent's apprehension is that by reopening the cases, the petitioner / complainant is attempting to fill up the lacuna in the evidence, which cannot be done at this stage.

5. The defence of the respondent is that the cheques pertaining to these cases had not been issued in discharge of any liability and no yarn was supplied to the respondent.

6. This Court feels that if at this point, by reopening the cases to summon and examine the Commercial Tax Officer would cause further delay in the proceedings of the case.

7. At this juncture, the petitioner submits that he is in possession of the Day Book and Sales Register and ready to produce them these two documents would prove the fact of sale and supply of yarns to the respondent.

8. The learned counsel appearing for the respondent has objected for further delay of the trial.

9. Considering the rival submissions made on either side and in the interest of justice, the impugned orders dated 14.07.2015, made in Cr.M.P.Nos.3837, 3836, 3838 and 3835 of 2015 in C.C.Nos.5, 6, 7 and 8 of 2009 are confirmed with regard to summoning of the Commercial Tax Officer. In view of petitioner is in possession of Day Book and Sales Register, the petitioner is permitted to examine the power agent or the employee of the Firm, to mark the day book and sales register to prove the supply of yarns. The respondent to cross-examine the witness on the same day and this process of chief-examination, cross-examination, marking of the day book and sales register to be completed within a period of one month from the date of receipt of a copy of this order. Thereafter, the Trial Court to proceed with the case, complete the proceedings, within a period of one month therefrom. The petitioner to supply the copies of



documents, which he intends to mark, well in advance, enabling the respondent to know about the documents.

**10.** At this juncture it is submitted that C.C.Nos.5 to 8 of 2017, which were pending on the file of learned Judicial Magistrate No.2, Dindigul, are renumbered as C.C.Nos.227, 228, 229 and 239 of 2017 and transferred to the file of learned Judicial Magistrate No.1, Tiruppur.

**11.** The Criminal Original Petitions stand disposed of accordingly. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

1. The Judicial Magistrate No.II, Dindigul.
2. The Judicial Magistrate No.I, Tiruppur.

+1 CC to M/s.J.JEYAKUMARAN, Advocate ( SR-104956[F] dated 13/12/2019

+1 CC to M/s.M/S.SARVABHAUMAN ASSO, Advocate ( SR-105099[F] dated 16/12/2019 )

**Common order made in**  
**Crl.O.P. (MD) .Nos.15468**  
**to 15471 of 2015**  
**13.12.2019**

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