



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **18.02.2021**

CORAM:

THE HONOURABLE **Mrs.JUSTICE R.HEMALATHA**

CrI.O.P.(MD)No.2566 of 2021

and

CrI.M.P.(MD)No.1343 of 2021

WEB COPY

R.Jagadeeswaran,
S/o.R.M.Rajamanikam,
Executive Director,
M/s.Sri Vakirakaali Amman Spinning Mills Private Ltd.,
Silukkuvarpatti,
Nilakottai Taluk,
Dindigul - 624 215.

...Petitioner/3rd Respondent/
3rd Accused

/Vs./

1.M/s.L.S.Mills (Pvt.) Ltd.,
Represented by
Tr.Narayanasamy

... Respondent No.1/Petitioner/
Complainant

2.M/s.Sri Vakirakaali Amman Spinning Mills Private Ltd.,

3.R.M.Rajamanikam,
Managing Director,
M/s.Sri Vakirakaali Amman Spinning Mills Private Ltd.

...Respondents 2 & 3/
Respondent 1 & 2/Accused No.1 & 2

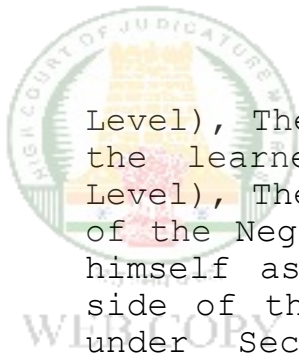
PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and set aside the orders dated 27.01.2021 passed by the Judicial Magistrate, Fast Track Court (Magisterial Level), Theni, in Cr.M.P.No.1586 of 2020 in S.T.C.No.46 of 2017.

For Petitioner : Mr.C.Muthu Saravanan

ORDER

The present petition is filed by the petitioner under Section 482 of the Code of Criminal Procedure to set aside the orders dated 27.01.2021 passed by the Judicial Magistrate, Fast Track Court (Magisterial Level), Theni, in Cr.M.P.No.1586 of 2020 in S.T.C.No.46 of 2017.

2.The petitioner is the third accused in S.T.C.No.46 of 2017 on the file of the Judicial Magistrate, Fast Track Court (Magisterial
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Level), Theni. The first respondent filed a private complaint before the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Theni for the offences punishable under Sections 138 and 141 of the Negotiable Instruments Act and the complainant also examined himself as PW1 on 05.07.2019 and thereafter, the evidence on the side of the complainant was closed and the accused was questioned under Section 313 of the Code of the Criminal Procedure. Thereafter, the complainant filed a petition under Section 311 of the Code of Criminal Procedure to recall PW1 for the purpose of marking certain documents. The learned Judicial Magistrate, Fast Track Court (Magisterial Level), Theni allowed the said petition on 27.01.2021 and aggrieved over the same, the present petition is filed by the petitioner / third accused.

3.The main contention of the learned counsel for the petitioner is that the complainant was examined as early as on 05.07.2019 and that the petition to recall PW1 was filed only to fill up the lacuna.

4.A perusal of the orders passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Theni, shows that when PW1 was examined in chief, the accused did not cross examine PW1 and subsequently, some questions regarding Account Statements and maintenance of certain Registers in the complainant company were posed to PW1 which necessitated the complainant to file a petition under Section 311 of the Code of Criminal Procedure.

5.The Magistrate has also considered all the aspects of the case including the evidence of PW1 before allowing the petition under Section 311 of the Code of the Criminal Procedure. The main reason for recalling PW1 is to mark the Account Statements, Certain Registers and other E-mail correspondence of the complainant company and by marking those records, it cannot be said the accused would be prejudiced.

6.In the facts and circumstances, I do not find any reason to interfere with the findings recorded by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Theni in Cr.M.P.No.1586 of 2020 in S.T.C.No.46 of 2017. In the result, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Judicial Magistrate,
Fast Track Court,
Theni.

Order made in
Crl.O.P.(MD)No.2566 of 2021
Dated: 18.02.2021

MJ(CO)
TR(26.03.2021) 3P 2C