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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.5415 OF 2020

AND

CRL.M.P.NO.3071 OF 2020

Sri Manmaya Textiles (P) Ltd.
Having office at:
No.51, Kalaaigner Nagar,
Karungalpalayam, Erode

Represented by
Mr.Mukesh Kumar Lahoti
Son of Nandlal Lohoti,
No.28/4, Ranganathan Street,
Karungalpalayam, Erode - 3.

...Petitioner

Vs.

1.M/s.Foremost International (P) Ltd.
Plot No.71, Udyog Vihar, Phase 1,
Gurgoan, Haryana,
Rep.by its Director Varun Moudgil.

2.Varun, Moudgil
whose father's name is not known,
Director, M/s.Foremost International (P) Ltd.,
Plot No.71, Udyog Vihar, Phase 1,
Gurgoan, Haryana,

3.Atul Moudgil
whose father's name is not known,
Director, M/s.Foremost International (P) Ltd.,
Plot No.71, Udyog Vihar, Phase 1,
Gurgoan, Haryana,

...Respondents

Prayer : Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and set aside the order dated 12.02.2020 passed in C.M.P.No.213 of 2020 in S.T.C.No.453 of 2018 on the file of the learned Judicial Magistrate (Fast Track Court No.II) at Erode.

For Petitioner : Mr.Balaji Sankara Moorthy

For R1 to R3 : Mr.D.Gopal



ORDER

This Criminal Original Petition has been filed to set aside the order dated 12.02.2020 passed by the learned Judicial Magistrate (Fast Track Court No.II) at Erode in C.M.P.No.213 of 2020 in S.T.C.No.453 of 2018 thereby allow the petition filed by the petitioner under Section 311 of Cr.P.C. to recall P.W.1 for marking additional documents.

2.The petitioner is the complainant and he filed a complaint as against the respondents for the offence under Section 138 of Negotiable Instruments Act. After examination of P.W.1 he was cross examined by the respondents, thereafter, the evidence of the complainant was closed and when the matter was posted for questioning u/s.313 Cr.P.C., the respondents filed a petition u/s.311 Cr.P.C., to recall P.W.1 for cross examination and it was allowed and P.W.1 was cross examined by the respondents. Thereafter, when the matter was posted for further evidence of defence, the petitioner filed a petition to recall P.W.1 for further chief examination and for marking additional documents on the ground that during the cross examination of P.W.1 he was not questioned about the business transactions viz. the goods that were not properly sent to the accused and that is why the petitioner was not able to produce invoices and statement of accounts along with the complaint. In order to prove his complaint, the petitioner wanted to produce certain vital documents before the trial Court.

3.Considering the above fact, this Court is of the opinion that the petitioner shall be granted one more opportunity to prove his case by producing additional documents.

4.In view of the same, the order passed by the learned Judicial Magistrate (Fast Track Court No.II) at Erode in C.M.P.No.213 of 2020 in S.T.C.No.453 of 2018 is set aside and this Criminal Original Petition is allowed. It is made clear that the petitioner shall file and mark those documents on the date that may be fixed by the trial Court. The trial Court is directed to proceed with the trial in accordance with law. The trial Court is also directed to complete the trial within a period of three (3) months from the date of receipt of a copy of this order.

5.With the above direction, this Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

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To

The Judicial Magistrate (FTC) No.II,
Erode.

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+1cc to M/s.Balaji Sankara Moorthy, Advocate, Sr.No.32700

+1cc to M/s.D.Gopal, Advocate, Sr.No.32888

CrI.O.P.No.5415 of 2020
and CrI.M.P.No.3071 of 2020

RLD(CO)
RVM(20/06/2022)