

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.O.P.NO.24298 OF 2019

AND

CRL.M.P.NOS.12851 & 12853 OF 2019

- 1.Srinivasha Fashions Private Limited,  
Srinivasa Exports International  
Rep.by its Managing Director,  
Coppa Vasudevarao Ravindran,  
Having Office at 1A, Regency Apartments,  
No.5, 1<sup>st</sup> Floor, Nungambakkam High Road,  
Chennai-600 034.
  - 2.Coppa V.Raveendran,  
Managing Director of Srinivasha Fashions Private Limited,  
Srinivasa Exports International,  
Having Office at 1A, Regency Apartments,  
No.5, 1<sup>st</sup> Floor, Nungambakkam High Road,  
Chennai-600 034.
  - 3.Vijayalakshmi Raveendran,  
Director of Srinivasha Fashions Private Limited,  
Srinivasa Exports International,  
Having Office at 1A, Regency Apartments,  
No.5, 1<sup>st</sup> Floor, Nungambakkam High Road,  
Chennai-600 034.
  - 4.Varun,  
Director of Srinivasha Fashions Private Limited,  
Srinivasa Exports International,  
Having Office at 1A, Regency Apartments,  
No.5, 1<sup>st</sup> Floor, Nungambakkam High Road,  
Chennai-600 034.
  - 5.Apurva Kulkarni,  
Director of Srinivasha Fashions Private Limited,  
Srinivasa Exports International,  
Having Office at 1A, Regency Apartments,  
No.5, 1<sup>st</sup> Floor, Nungambakkam High Road,  
Chennai-600 034.
- ...Petitioners

Vs.

N.A.S.Periyaswamy,  
Proprietor of Sre Viknesh Tex,  
Office at 28-C, Akilmedu 3<sup>rd</sup> Street,  
Erode-638 001.

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C. praying to setting aside the order passed by the Judicial Magistrate -Fast Track Magisterial-No.2, dated 08.08.2019 in CrI.M.P.No.4552 of 2019.

For Petitioners : Mr.Y.Kaja Navas

For Respondent : Mr.M.Guruprasad

#### ORDER

The petitioners are the accused in a private complaint initiated under Section 138 of Negotiable Instruments Act with delay of 11 days. In the petition to condone the delay, notice was issued to the petitioners and their personal appearance alleged to have been insisted by the Court below and therefore the present petition is filed under Section 482 of Cr.P.C., seeking for an order of this Court to set aside the order dated 08.08.2019 passed by the Judicial Magistrate Fast Track Magisterial-II in CrI.M.P.No.4552 of 2019 and permit the petitioner to be represented by the counsel.

2. The order of the learned Judicial Magistrate-Fast Track Magisterial-No.2, Erode, which is impugned in this petition reads as below:

"Complainant present. Private notice to R1 served and R2 to R5 returned as left. Memo with returned cover and AD card filed and recorded. Advocate Mr.P.Rajeshkumar filed Vakalat for R1 to R5. R1 to R5 called absent. Petition 317 Cr.P.C., filed and allowed. For appearance of R1 to R5 and for furnishing copies. Call on 16.09.2019."

3. From the reading of this impugned order, this Court does not find that the Magistrate insisting upon the personal appearance of the petitioners, but the order only reads that for furnishing copies they may be present. At the same time, the Court has also recorded the appearance of the counsel on behalf of these petitioners. Therefore, this Court finds that the apprehension of the petitioners and the contention of the petitioners that the Court below insisted upon the physical appearance may not be correct, even if it so once the counsel represented and accepted by the Court below, there is no

necessity for the petitioners herein to rush before the Court. However having coming to this Court after obtaining the Court order, the matter stands stayed nearly for three years. The presence of the accused in a private complaint initiated under Section 138 of N.I.Act, may not be required on all occasions, unless and until the presence is required for any particular purpose for questioning or identification. The Court will not insist upon for personal appearance, but the dispense with petition either under Section 317 or 205 of Cr.P.C., as the case may be. In this case also the learned Magistrate has accepted 317 Cr.P.C. petition filed on behalf of the petitioners and he has ordered the appearance of the petitioners only to furnish copies to them. If they show to receive the copy, they can very well through their counsel make representation and receive the same.

4. In view of the above, this Criminal Original Petition is disposed of. Consequently, connected Criminal Miscellaneous Petition are also closed.

Sd/-  
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

rpl

To

1.The Judicial Magistrate  
Fast Track Magisterial No.2,  
Erode.

2.The Public Prosecutor,  
High Court, Madras.

+lcc to Mr.M.Guruprasad, Advocate Sr.No.39940

Cr1.O.P.No.24298 of 2019  
and  
Cr1.M.P.Nos.12851 & 12853 of 2019

AJS(CO)  
RVM(15/07/2022)