



CRL.O.P.No.26521 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

Crl.O.P. No.26521 of 2022
and Crl.M.P. Nos.16324 & 16326 of 2022

1.M.Shanmugam,
Partner,
M/s.Peninsula Spinning Mills

2.Perumal
Partner,
M/s.Peninsula Spinning Mills ... Petitioner

Versus

S.R.Sathishkumr,
Proprietor,
M/s.Sri Jayalakshmi Textiles ... Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in S.T.C.No.172 of 2021 on the file of the learned Judicial Magistrate Fat Track Court I, Erode and quash the same.

For Petitioners : Mr.M.N.Balakrishnan



ORDER

WEB COPY

This Criminal Original Petition has been filed seeking to call for the records in S.T.C.No.172 of 2021 on the file of the learned Judicial Magistrate Fast Track Court I, Erode and quash the same.

2. The petitioners are the 4th and 5th accused on the private complaint given by the respondent for the offence under Sec.138 r/w 142 of Negotiable Instruments Act,1881.

3. The learned counsel for the petitioners submitted that the petitioners are not the partners of the 1st accused 'M/s.Peninsula Spinning Mills' and the respondent had impleaded the petitioners unnecessarily. It is further submitted that as per Section 141 of the Negotiable Instruments Act-1881, the persons who are in charge and responsible of the conduct of the business of the Company alone are liable for criminal proceedings.

4. It is seen from the complaint given by the respondent that the second accused is the Managing Partner and the accused 3 to 5 are Partners, who are responsible for the day to day affairs of the company. It is elaborated further that the second accused is taking care of the management, administrative and financial affairs of the company and the 3rd accused is



CRL.O.P.No.26521 of 2022

looking after the accounts and the 4th accused is taking care of the sales and marketing. But the involvement of the 5th accused is not known except that he is one of the Partners of the 1st accused company.

5. In order to substantiate the arguments of the petitioners that they are not the partners of the 1st accused company no document is shown. Since the respondent has alleged that the petitioners are also the Partners of the 1st accused, I feel it is appropriate that the petitioners are put under trial in order to bring out all facts regarding the case. However, taking into consideration of the limited role played by the 4th accused and the age of the 5th accused, their personal appearance can be dispensed with.

With the above observation, this Criminal Original Petition is **dismissed**. However, the appearance of the petitioners is dispensed with except when it is absolutely essential and ordered so by the learned trial Judge. Consequently, connected miscellaneous petitions are dismissed.

03.11.2022

Index: Yes/No
jrs



WEB COPY



CRL.O.P.No.26521 of 2022

R.N.MANJULA, J.,

jrs

To:

The Judicial Magistrate Fast Track Court I, Erode

Crl.O.P. No.26521 of 2022
and Crl.M.P. Nos.16324 & 16326 of 2022

03.11.2022