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Crl.O.P.No.28240 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.28240 of 2023 and
Crl.M.P.No.19605 of 2023

1.M/s.Salim shoes (P) Ltd
Rep by its Managing Director,
Mr.Arcot Mohammed Saalim,
No.1-A Regency Apartment,
No.5, 1st Lane, Nungambakkam High Road,
Chennai - 600034.

2.Arcot Mohammed Saalim
Managing Director
M/s. Salim shoes (P) Ltd.
No.1-A Regency Apartment,
No.5, 1st Lane, Nungambakkam High Road,
Chennai - 600034.

...Petitioners

Vs.

1.M/s.United Enterprises
Rep by its Managing Partner,
Mr.N.Srinivasan,
No.15/3, Bharathi Nagar,
Ranipet, Ranipet District – 632403.

2.Arcot Mohammed Aslam,
Director M/s. Salim shoes (P) Ltd.
No.1-A Regency Apartment,
No.5, 1st Lane, Nungambakkam High Road,
Chennai - 600034.



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3.Shakvai Mumtaj Begum
Director, M/s. Salim shoes (P) Ltd.
No.1-A Regency Apartment,
No.5, 1st Lane, Nungambakkam High Road,
Chennai - 600034.

4.Arcot Mohammed Ashfaque,
Director M/s. Salim shoes (P) Ltd.
No.1-A Regency Apartment,
No.5, 1st Lane, Nungambakkam High Road,
Chennai - 600034.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. to set aside the order dated 06.11.2023 made in C.M.P.No.3854 of 2023 in STC No.384 of 2020 on the file of the District Munsif Cum Judicial Magistrate Court, Ranipet.

For Petitioner : Ms.S.Sri Ranjini

ORDER

The petitioner has filed the present petition seeking interference in the order dated 06.11.2023, in C.M.P.No.3854 of 2023 in STC No.384 of 2020, passed by the learned District Munsif Cum Judicial Magistrate Court, Ranipet.

2.The petitioner is an accused in STC No.384 of 2020, on a complaint given by the respondent/complainant-M/s.United Enterprises under Section 138 N.I.Act. Trial is in progress. It would therefore only be



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appropriate that this Court does not enter into a detailed discussion about the merits of the case.

3.In the course of trial, PW1 had been examined and also been cross examined. The matter is now at the stage of arguments. At this stage, the petitioners herein had filed the aforementioned C.M.P.No.3854 of 2023, seeking recall of PW1 for further cross examination. That request was denied by the learned District Munsif Cum Judicial Magistrate Court, Ranipet, by an order dated 06.11.2023, necessitating filing of the present petition.

4.The reason why the petitioners sought recall of PW1 was to present an order passed by the National Company Law Tribunal, Chennai, in IBA/1104/2019 dated 20.09.2023. By that particular order, a plan had been given by the petitioners herein and the Resolution Professional had been directed to put that particular plan into effect. It is stated that the insolvency proceedings had been initiated by the respondents/complainants herein. But however, since it is an order of the Court, it need not be proved in the manner known to law, but can always be taken as a further exhibit and the petitioners herein can always argue about the surrounding circumstances



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leading to filing of IBA/1104/2019. Witnesses need not be recalled for that particular purpose. There cannot be denial or dispute of the order of the National Company Law Tribunal, Chennai, since it is a fact that the order was passed and the order is also available.

5.In the order of the learned District Munsif Cum Judicial Magistrate, reasons given for negating the request for recalling PW1 was that PW1 had been cross examined on two occasions and therefore, substantial cross examination had been completed and therefore, further cross is not required. The learned District Munsif Cum Judicial Magistrate had also stated about the order dated 20.09.2023, passed by the National Company Law Tribunal, Chennai and stated as a reason that the marking of the same and putting questions relating to the said order would not be required. The issues before the National Company Law Tribunal, Chennai, can be argued and I am confident that the learned District Munsif Cum Judicial Magistrate would give ample opportunity to the petitioners herein to advance arguments.

6.Additionally, a certified copy of the order of the National



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Company Law Tribunal, Chennai, can be taken on record by the learned District Munsif Cum Judicial Magistrate, Ranipet and give an exhibit number in the manner the learned District Munsif Cum Judicial Magistrate deems fit and argument may be presented simultaneously along with the arguments in STC No.384 of 2020.

7.Observing as above, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is also closed.

20.12.2023

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To

The District Munsif Cum Judicial Magistrate Court,
Ranipet.



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C.V.KARTHIKEYAN, J.

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