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Crl.O.P.No.23481 & 23484 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.Nos.23481 & 23484 of 2024

and

Crl.M.P.No13294 of 2024

M/s. Nithin Textiles Private Limited
is merged Amalgamated and vested with
M/s. Sri Saravana Mills Private Limited,
Having their registered office At
Renganathapuram,
Vedasanthur,Dindigul,

Having their corporate office at
K.P.N.Colony, 3rd street, Tiruppur-641601
was represented by their then Authorized person and then Manager
Mr.K.Kanthanathan
and at present represented by their Assistant General Manager - Sales
and Authorized person
Mr.Ramani Ganesh,
S/o. Ramani ... Petitioner in both the Crl.OPs

Vs.

1.M/s. Mass Creations
Rep. by its Partner Mr.M.Balakrishnan
S.F.No.474,1st Street,
Samundipuram,
Near D.M.K. Mandram,
Gandhi Nagar Post,
Tiruppur- 641603



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2. M.Balakrishnan,
Partner of M/s. Mass Creations,
S.F.No.474, 1st Street,
Samundipuram,
Near D.M.K. Mandram,
Gandhi Nagar Post,
Tiruppur - 641603

... Respondents in both the Crl.OPs

Prayer: Criminal Original Petition is filed under Section 528 BNSS, pleaded to call for the records relating to the order dated 27.08.2024 made in C.M.P Nos. 6448 & 6450 of 2023 in STC No. 303 of 2012 passed by the learned Judicial Magistrate (Fast Track) Court, Tiruppur and set aside the same.

For Petitioner in both the Crl.OPs : Mr.S.Kousik

ORDER

M/s. Nithin Textiles Private Limited is the complainant under Section 138 of Negotiable Instruments Act against M/s.Mass Creations and its partner Balakrishnan. At the time of filing the complaint, the complainant company got amalgamated with M/s. Sri Saravana Mills Private Limited and was represented by the authorized person Mr.Kanthanathan.

2. After examination of witnesses, when the matter was posted



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for arguments, application under Section 311 Cr.P.C., been filed by the complainant stating that since Kanthanathan been relieved from service, subsequently the company has authorized one Ramani Ganesh and he has also been substituted in the place of Kanthanathan by the order of the trial Court to continue the prosecution, it is necessary to examine as PW.2. The trial Court, after considering the grounds on which the complainant wants Ramani Ganesh to be examined as PW.2, found that the application does not sustainable, since the evidence of the complainant through his authorized person Kanthanathan already been recorded and form part of the proceedings and the earlier application filed to scrap (eschewed) evidence of PW.1 been dismissed vide order dated 27.08.2024. The subsequent application to examine the newly authorized person will not arise.

3. The learned counsel appearing for the petitioner submits that the order of the trial Court dismissing the application under Section 311 Cr.P.C., is devoid of merits. The case of the complainant has to be spoken by the present authorized person. Hence he has been examined as PW.2, since Kanthanathan PW.1 suffers from serious health issue, the facts which need to be clarified in respect of the documents marked cannot be



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done through Kanthanathan [PW.1].

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4. Heard the learned counsel for the petitioner and the records perused.

5. Application under Section 311 Cr.P.C., to examine Ramani Ganesh as PW.2 only states that since PW.1, the Kanthanathan is bedridden, PW.2 has to be summoned and examined on the side of the complainant. When the examination of PW.1 Kanthanathan completed long back and the matter posted for arguments, the necessity to introduce another witness, who can speak only about the facts based on the record and nothing more not explained. Facts already been spoken by Kanthanathan and the evidence recorded, need no repetition.

6. The petition under Section 311 Cr.P.C., without disclosing the reason which will assist the Court to know whether examination of that witness will help the Court to arrive at just decision. Dismissal of Section 311 Cr.P.C., petition is perfectly in accordance with law and cannot be interfered. Hence this Criminal Original Petitions challenging the order of the trial Court dismissing the application filed under Section



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311 Cr.P.C., by the complainant stand dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

25.09.2024

Index : Yes/No

Neutral Citation : Yes/No

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To

The Judicial Magistrate (Fast Track) Court, Tiruppur

Dr.G.JAYACHANDRAN,J.

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