



Crl.O.P.No.6292 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.6292 of 2023
and Crl.M.P.No.3964 of 2023

1. V.Mohan Raj
2. V.Saravanakumar
3. V.Sudha
4. V.Balaji

... Petitioners

Vs.

1. B.Srinivasan
2. M/s.Ayngaran Tex,
Office at No.8/10,
Society Street,
Vennandur Post,
Rasipuram Taluk,
Namakkal – 637 505.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C., to call for the records in order dated 10.02.2023, passed by the learned Judicial Magistrate (Fast Track Court No.II) at Erode, made C.M.P.No.980 of 2023 in S.T.C.No.729 of 2017 and set aside the same.

For Petitioners : Mr.B.Jawahar

For Respondents

For R1 : Mr.A.M.Amutha Ganesh



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ORDER

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This petition has been filed to set aside the order dated 10.02.2023 made in C.M.P.No.980 of 2023 in S.T.C.No.729 of 2017 by the learned Judicial Magistrate (Fast Track Court No.II) at Erode, thereby allowing the petition filed under Section 311 of Cr.P.C., to recall P.W.1.

2. The petitioners are the accused in the complaint lodged by the first respondent. The second respondent is the first accused/company. While pending trial, the petitioners had taken specific stand that the cheque for a sum of Rs.23,50,000/- was issued in favour of Sri Srinivasa Textiles whereas the notice has been issued by one B.Srinivasan. The complaint was also filed by the said B.Srinivasan in the individual capacity. Therefore, the first respondent filed petition to amend the cause title in C.M.P.No.1478 of 2020 and the same was allowed by the trial Court by an order dated 11.03.2021. However, the said order was challenged before this Court in Crl.O.P.No.8337 of 2021 and this Court by an order dated 29.09.2022, set aside the order passed in the amendment petition in C.M.P.No.1478 of 2020 dated 11.03.2021.



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3. Thereafter the first respondent filed petition to recall P.W.1 to mark certain documents to prove that the first respondent is none other than the proprietor of Sri Srinivasa Textiles and the same was allowed. Thereafter, P.W.1 was further examined and documents were marked as Ex.P.7 to Ex.P.10. However, the petitioners did not cross examine P.W.1 though they were given sufficient opportunity. Now the complainant side evidence is closed and the mater has been posed for questioning the accused.

4. The learned counsel appearing for the petitioners submitted that this Court while setting aside the order of amendment observed that, though the cheque was issued in the name of company viz., Sri Srinivasa Textiles, the legal notice was issued only in the name of B.Srinivasan and the amendment petition filed only in order to stultify the admission given during the cross examination of the complainant. Hence, he prays to allow the present petition.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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6. On perusal of the complaint revealed that the first respondent is the proprietor of M/s. Sri Srinivasa Textile. Therefore, the proprietor can represented by himself, though the cheque was issued in the name of the proprietary concerned. That apart, it is nothing but, the petitioners attempted to drag the proceedings to escape from the clutches of law. This Court finds no infirmity or illegality in the order passed by the trial Court. The first respondent is permitted to cross examine P.W.1, within a period of two weeks from the date of receipt of a copy of this Order. The trial Court viz., the learned Judicial Magistrate (Fast Track Court No.II) at Erode, is directed to dispose the case in S.T.C.No.729 of 2017, within a period of three months thereafter.

7. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is also closed.

05.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts



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To

The Judicial Magistrate
(Fast Track Court No.II)
Erode



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G.K.ILANTHIRAIYAN. J.

rts

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