



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2025

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THE HONOURABLE MR.JUSTICE **D. BHARATHA CHAKRAVARTHY**

Crl.O.P.No.18922 of 2025
and Crl.M.P.12727 of 2025

M.S.Suresh

... Petitioner/Accused

-Vs-

M/s. Otto Clothing Pvt.Ltd,
Representating by their authorized personal,
Gaurang.D.Metha

... Respondent/Complainant

Prayer :- Criminal Original Petition filed under Section 528 of BNSS to call for the entire records of the order dated 15.05.2025 in M.P.No.6 of 2025 in STC.No.3715/2023 passed by the learned XXVII Metropolitan Magistrate at Saidapet, (Fast Track Court for Trial of Cases under 138 NI Act), set aside the same.

For Petitioner : Mr.T.Elumalai

For Respondent : No appearance

ORDER

This Criminal Original Petition is filed challenging the order dated 15.05.2025 passed in M.P.No.6 of 2025 in STC No.3715 of 2023 on the file of the Court of XXVII Metropolitan Magistrate at Saidapet, (Fast Track Court for

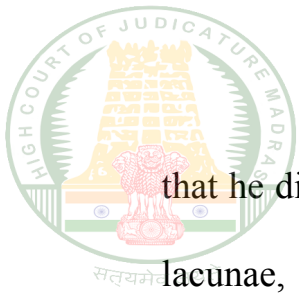


Trial of Cases under 138 NI Act). By the said order, the application filed by the respondent/complainant seeking permission to produce six additional documents has been allowed.

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2. It can be seen that in the application filed to produce the additional documents, the respondent / Complainant has stated that he has already marked eight documents, which are, cheques that are issued by the petitioner / accused, return memo, demand notice, etc. It is further pleaded that at the stage of numbering, he was not able to produce the resolution passed by the Complainant's Company, the invoice relating to the transactions, ledger copy bill wise outstanding analysis, delivery challan acknowledged by the accused for the goods delivered, Complainant's bank statement and GST filed certificate, etc. It is seen that the matter was posted on one date for filing counter. However, the petitioner herein did not file his counter, stating the same as the sole reason, the petition was allowed.

3. The learned counsel for the petitioner would submit that except allowing the petition, no other reason whatsoever was mentioned in the order dated 15.05.2025, as such the order is a non-speaking order. Secondly, when the complainant has been cross examined in detail and when it was exposed



that he didn't produce any document in support of his claim, only to fill up the lacunae, subsequently these documents are now sought to be marked. The primary contention of the learned counsel is that the complainant is not empowered to file the documents and therefore, the application ought not to have been entertained by the Trial Court.

4. Heard the learned counsel appearing on behalf of the petitioner / accused and perused the material records of the case.

5. This is an application to file additional documents. It can be seen that the matter is in the trial stage and the complainant's cross examination is over. At this stage, the application is filed. When the matter is posted for filing counter, and when the counter is not filed, the Trial Court thought it fit, not to further adjourn the matter and dealt with the application. Therefore, the action of the Trial Court in dealing with the same cannot be a ground to set aside the order. Further, the parties cannot think that automatically they may get further time for filing counter.

6. The second ground is that the Trial Court did not assign proper reasons while allowing the application. Though the Trial Court proceeded to



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allow the application primarily on the ground that no counter had been filed, and since the application was only for the production of documents, it could be allowed. Since the relevancy and proof of documents are all subject to further cross examination and also the contentions of the accused, the very production of the additional document at that stage itself need not be shutdown. In that regard, considering the context in which the order is passed, I'm not inclined to set aside the order as non-speaking one, however, the petitioner / accused herein who is entitled to cross examine the respondent / Complainant with reference to the timing of the production of the document. Secondly, the entitlement of the respondent / Complainant merely because, the documents are marked, they can neither be treated as relevant nor the marking through the complainant can be held to be finally adjudicated as proper. All these contentions can always be raised during the course of arguments and if the Trial Court, in accordance with law comes to a conclusion that the documents ought not to have been marked through the complainant, it is always open for the petitioner / accused to contend so and the Trial Court can decide the same.

7. Mere allowing of an application to mark the documents does not in any manner foreclose the defence that is available to the petitioner, as such keeping open all the liberties of the petitioner, I am of the view that this



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Criminal Original Petition need not be entertained and accordingly, the same stands disposed of, giving liberty to petitioner / accused to cross examine the witnesses as well as to argue the matter, when the matter comes up.

Consequently, the connected miscellaneous petition is closed.

07.07.2025

Neutral citation : Yes/No
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To
The XXVII Metropolitan Magistrate at Saidapet,
(Fast Track Court for Trial of Cases under 138 NI Act).



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D. BHARATHA CHAKRAVARTHY, J.

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