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CRL RC No. 1278 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-09-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL RC Nos. 1278 & 1279 of 2025

and

CrI.M.P.Nos.14797 & 14799 of 2025

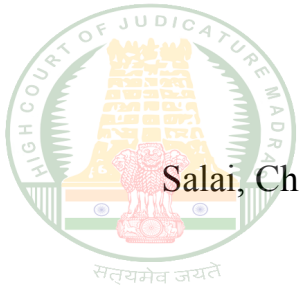
1. P.Umashankar
Erstwhile Managing Director,
M/s.M.P.Shan Tex Private Limited,
Having Office at 145/A/A Parapalayam,
Near Amman Koil, Mannarai Post,
Tiruppur.

Petitioner(s) in both
CrI.R.C.s

Vs

1. Top Thread Mills,
Power of Attorney Holder
K.P.K.Balasubramaniam, Aged about
54 years, S/o.K.P.Krishnan, Having
Office at 35, Gajalakshmi Theatre
Road, Tiruppur.

2.P.Atchuta Ramaiya
Liquidator of M.P.Shan Tex Private
Limited, Office of Official Liquidator,
High Court of Madras, Corporate
Bhawan, 2nd Floor, No.29, Rajaji



Salai, Chennai-600001.

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CRL RC No. 1278 of 2025



Respondent(s) in both
Crl.R.C.s

CRL RC No. 1278 of 2025

PRAYER

To set aside the impugned order dated 23.06.2025 in Crl.M.P.No.7615/2022 in CC No.83/2017 passed by the learned Judicial Magistrate Fast Track Court at Tiruppur.

CRL RC No. 1279 of 2025

PRAYER

To set aside the impugned order dated 23.06.2025 in Cr.M.P.No.7612 of 2022 in C.C.No.96 of 2017 passed by the learned Judicial Magistrate Fast Track Court at Tiruppur.

In both CRL RC.s

For Petitioner: Mr. R.Balaji Singh

For Respondents: Dr.C.E.Pratap
Government Advocate (Crl.Side)

COMMON ORDER

Challenging the impugned orders passed by the learned Judicial Magistrate, Fast Track Court, Tiruppur in Crl.M.P.Nos.7612 and 7615 of 2022 in C.C.Nos.96 and 83 of 2017, the petitioner/2nd accused has preferred these Criminal Revision Cases.



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2. The learned counsel for petitioner/2nd accused would submit that before the trial court, he filed petitions in both Criminal Cases praying to implead the official liquidator as a party to represent the 1st accused company. Since already the 1st Accused company was wound up by the official liquidator, if any proceedings is initiated against the said company, the 1st respondent/complainant has to proceed with 2nd respondent/official liquidator as on date, since all the documents were taken up by official liquidator on the date of liquidation. So, he filed petitions in both the Criminal Cases to implead official liquidator as 2nd respondent, but the learned Magistrate has allowed the said petitions filed in Crl.M.P.Nos.6653 and 6651 of 2021. Thereafter to carry out amendment, the 1st respondent/complainant again filed the petitions in Crl.M.P.Nos. 7612 and 7615 of 2022 to implead and amend the proceeding to represent the 1st accused company and the same were dismissed by the learned Magistrate holding that the 1st respondent/complainant has not filed any order copy of the appointment of official liquidator and also observed that the cheques involved in the cases no way connected with official liquidator proceedings. Therefore, he is not a necessary party. Accordingly, both petitions were



dismissed. Challenging the said findings, now the petitioner/2nd accused preferred these Criminal Revision Cases.

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3. Notice sent to respondents, in which notice sent to 1st respondent was returned as “out of station”. The learned counsel for petitioner/2nd accused argues that the official liquidator is a necessary party to the proceedings, but it was failed to take note of by the trial court and prayed to set aside the findings of learned Magistrate and to allow these Criminal Revision Cases by raising following grounds for consideration:-

(i) The trial court failed to take into account that Sec.141(2) of the Negotiable Instruments Act states that if the offence has been committed with the consent or connivance of, or attributable to, any neglect on the part of director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Since the alleged offence took place after the liquidation order, Liquidator should also be made a party to the proceedings.



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(ii) The trial court has failed to consider that Sec.35(1)(k) of the IBC specifically allows the liquidator to institute or defend any suit, prosecution or other legal proceedings, civil or criminal in the name and on behalf of the corporate debtor.

4. On perusal of records, it reveals the fact that learned Magistrate already allowed the petitions filed by the 1st respondent/complainant in Crl.M.P.Nos. 6652 and 6649 of 2021 holding that the official liquidator is the necessary party to the proceedings. Thereafter, to implead and to follow the other consequential amendment, the 1st respondent/complainant again filed another petitions in Crl.M.P.Nos. 7612 and 7615 of 2022 and the same was not allowed by the trial judge holding that the date of appointment of official liquidator has not been stated in the petitions nor he is necessary party to the proceedings. But already the trial judge has made an observation that the first accused company was wound up by the official liquidator through his letter dated 27.10.2013 and the subject cheques involved in these case is of the year 2015. Now, all the records pertaining to the 1st accused company are under the hands of official liquidator. Therefore, the official liquidator is the necessary party to the proceedings.



Contradicting the same, the learned Magistrate dismissed the petitions and not permitted the 1st respondent/complainant to implead and carry out necessary

amendments as such is erroneous one and liable to be set aside. Accordingly, the

impugned orders passed by the learned Magistrate in Crl.M.P.Nos. 7612 and

7615 of 2022 are set aside and these Criminal Revision Cases are allowed.

04-09-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

The Judicial Magistrate, Fast Track Court, Tiruppur.



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CRL RC No. 1278 of 2025



T.V.THAMILSELVI J.
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1279 of 2025
and
Crl.M.P.Nos.14797 &
14799 of 2025**

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