

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.5360 of 2014
and M.P.Nos.1 and 2 of 2014

Yogavathi ... Petitioner/Defacto Complainant

Vs

1.R.Senthilkumar
2.Saroja
3.Prema ... Respondents 1 to 3/A1 to 3
4.State rep by Inspector of Police
All Women Police Station
Namakkal, Namakkal District.
Cr.No.1 of 2012 ... 4th Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to withdraw the C.C.No.3 of 2013 pending on the file of the Judicial Magistrate No.1, Namakkal and transfer the same to the file of Judicial Magistrate Court, Madurai.

For Petitioners : Mr.V.Chinnasamy
For R1 to R3 : Mr.K.A.Mariappan
For R4 : Mr.C.Emalias,
Addl.Public Prosecutor

ORDER

Heard the learned counsel for the petitioner, learned Additional Public Prosecutor appearing for the State and learned counsel for the accused.

2. This petition has been filed by the defacto complainant to transfer C.C.No.3 of 2013 from the file of the learned Judicial Magistrate-1, Namakkal, to any Court in Madurai on the ground that, the defacto complainant is residing there.

3. It is seen that the defacto complainant got married to R.Senthil Kumar [A1] on 15.09.2011 and thereafter, their marriage ran into rough weather and they got estranged. It is alleged by the defacto complainant that she was subjected to cruelty by her husband and in-laws. The defacto complainant initially lodged a

complaint before the respondent police, Tallakulam and the said complaint was transferred to the file of the Inspector of Police, All women Police Station, Namakkal for want of jurisdiction. The All Women Police Station, Namakkal registered a case in Cr.No.1 of 2012 and after completing the investigation has filed Final Report in C.C.No.3 of 2013 before the learned Judicial Magistrate-1, Namakkal for offences under Sections 498(A), 495, 109 IPC and Section 4 of the Dowry Prohibition Act against R.Senthil Kumar [A1], Saroja [A2] and Prema [A3]. The defacto complainant has now approached this Court for transferring this case to Madurai on the ground that she is living in Madurai and it will be difficult for her to come to Namakkal to give evidence.

4. A criminal case cannot be transferred from one Court to another Court easily, inasmuch as it will cause prejudice to the witnesses who have to come and depose before the Court. This Court finds that there are eight prosecution witnesses in the Final Report, of whom only three are from Madurai and the rest are from places in and around Namakkal.

5. Learned counsel for the petitioner/defacto complainant submitted that the matrimonial proceedings are pending in Madurai and that the father of the defacto complainant has also lodged a complaint against the present accused before the learned Judicial Magistrate-5, Madurai, which is pending there, in which the accused are appearing and therefore, this prosecution also should be transferred to Madurai.

6. I am unable to countenance this argument for the simple reason that, the pendency of the proceedings before the Family Court in Madurai cannot be a reason to transfer a criminal case from the jurisdictional Court.

7. Learned counsel for the petitioner/defacto complainant submits that they require security to go to Namakkal and give evidence before the trial Court. The trial Judge is directed to fix a date for their examination and on that date, the respondent police shall ensure that the defacto complainant and her father are escorted to the Court for giving evidence. The Hon'ble Supreme Court in Vinod Kumar v. State of Punjab [2015(1) Scale 542] has held that the cross examination of a witness has to be done on the date when the chief is completed and that no adjournments should be granted for the purpose of cross examination. The trial Court shall follow the aforesaid dictum of the Supreme Court and ensure that the accused cross examine the witnesses without adopting dilatory tactics. If the accused adopt any dilatory tactics, their bail can be cancelled as held by the Supreme Court in State of Uttar Pradesh v. Shambhu Nath Singh [JT 2001 (4) SC 319] and remanded to custody.

With the above observation, this petition is dismissed. The trial Court shall expeditiously conduct the trial and complete the same within a period of six months from the date of receipt of a

copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar
True Copy

Sub Assistant Registrar

gms

To

1.Judicial Magistrate No.1,
Namakkal.

2. The Inspector of Police
All Women Police Station
Namakkal, Namakkal District.

3.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.V.Chinnasamy, Advocate Sr.No.46399/15.

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pmk.21.9.2015



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