

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 05.06.2015

Delivered on : 11.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.13519 of 2015
and M.P.No.1 of 2015

1.Raja @ Fire Service Raja
2.Patthu @ Padmanathan
3.Ramesh @ Pregalathan

... Petitioners

Versus

State rep. by its Inspector of Police,
Erode Town Police Station,
Erode District. (Crime 446 of 2013)

... Respondent

Criminal Original petition filed under Section 407 read with 482 of the Criminal Procedure Code read with Rule 53 of the Criminal Rules of Practice praying to set aside the order dated 09.03.2015 made in Tr.Crl.M.P. No.183 of 2015 passed by the learned Principal Sessions Court, Erode and transfer the case in S.C.No.89 of 2014 from the file of the I Additional Sessions Court, Erode to any other court of competent jurisdiction for fair hearing.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.C.Emalias, Addl. Public
Prosecutor

सत्यमेव जयते
O R D E R

This Criminal Original Petition has been filed praying to set aside the order dated 09.03.2015 made in Tr.Crl.M.P. No.183 of 2015 passed by the learned Principal Sessions Court, Erode and transfer the case in S.C.No.89 of 2014 from the file of the I Additional Sessions Court, Erode to any other court of competent jurisdiction for fair hearing.

2. The petitioners are facing trial in S.C.No.89 of 2014 before the I Additional Sessions Court, Erode for the offences under Section 147, 148, 120B, 302, 307 read with 34 IPC. It is seen that the prosecution evidence has been completed and the matter is posted for arguments.

3. At that juncture, the petitioners approached the Principal District and Sessions Judge, Erode in Tr.Crl.M.P.No.183 of 2015 under Section 408 Cr.P.C to transfer the case from the file of the I Additional Sessions Court to another Court in the same sessions division. The learned Principal Sessions Judge, after hearing both sides dismissed Tr.Crl.M.P.No.183 of 2015 on 09.03.2015. Aggrieved by which, the petitioners are before this Court.

4. Mr.N.Manoharan, learned counsel for the petitioner submitted that during the pendency of S.C.No.89 of 2014, four cases have been registered by the police as against the accused which are all false cases. The details of the cases are as follows:

- i. The Inspector of Police, Karungalapalaym police station has registered a false case in Crime No.373 of 2014 for the alleged offence under Sec.387 IPC against the 1st petitioner and he was arrested and remanded to the judicial custody on 29.09.2014.
- ii. The Inspector of Police, Karungalapalaym police station has registered a false case in Crime No.383 of 2014 for the alleged offence under Section 387 IPC against the 2nd petitioner and he was remanded to the judicial custody on 01.10.2014.
- iii. The Inspector of Police, Surampatti police station has registered a false case in Crime No.604 of 2014 for the alleged offence under Section 341, 392 r/w.397 and 506 [ii] IPC against the 2nd petitioner and he was remanded to the judicial custody on 01.10.2014.
- iv. The Inspector of Police, Karungalapalaym police station has registered a false case in Crime No.575 of 2014 for the alleged offence under Sec. 387 IPC against the 3rd petitioner and he was remanded to the judicial custody on 22.12.2014.

5. It is the allegation of the petitioner that all these four cases have been registered at the instance of Mr.Augustine Peter the then Inspector of Police, Karungalpalayam Police Station who has now been transferred to the Erode Town Police Station. The second ground for transfer canvassed by the learned counsel is that when the bail application of the accused came before the I Additional Sessions Judge, Erode, he appears to have told them that they could approach the Principal District and Sessions Judge for bail as they have filed transfer application before him.

6. Mr.Manoharan presume to serve the judgment of the Hon'ble Supreme Court in Satish Jaggi Vs State of Chhattisgarh and Others reported in [2007] 3 SCC 62.

7. This Court carefully perused the records and found that the investigation in Crime No.446 of 2013 which ultimately culminated in SC.No.89 of 2014 was not conducted by one Mr.Augustine Peter. Crime

No.446 of 2013 was registered by the Inspector of Police, Erode Police Station in respect of a murder that took place in the year 2013. The prosecution has examined all the witnesses before the I Additional Sessions Judge in SC.No.89 of 2014, as observed by the Principal District and Sessions Judge in his order dated 09.03.2015 in Tr.Crl.M.P.No.183 of 2015 and therefore, the transfer of Mr.Augustine Peter from Karungalpalayam Police Station to Erode Town Police Station by the Government will not have any bearing on the appreciation of evidence by the I Additional Sessions Court, Erode of evidence which has been already adduced.

8. Every Judge in this Country is presumed to decide cases on evidence and not on the influence of an Inspector of Police. It appears that these petitioners are regular offenders and that is why different cases have been registered against them in various police stations. Therefore, this ground does not cut ice with this Court.

9. Coming to the next allegation that the trial Judge had exhorted the accused to approach the Principal Sessions Court for bail, it is seen that this ground was not raised by the petitioners in Tr.Crl.M.P.No.183 of 2015 before the Principal Sessions Court, Erode. It has been raised only during the oral arguments before the learned Judge which he has considered and rejected it.

10. Assuming for a moment that the Trial Judge had said so, I do not find anything wrong in that, because, when the accused made a representation to the Trial Judge that he has made a transfer application before the Principal Sessions Judge, the Trial Judge with all good intentions would have suggested that the bail application could also be heard by the same Judge so that a comprehensive order could be passed.

11. Indeed it has become very difficult for Judicial Officers, especially in the Subordinate Courts, to function with freedom and a mountain of a mole is made of every remark. This Court has no quarrel with the proposition of law laid down in the said judgment of the Hon'ble Supreme Court in Satish Jaggi's case. The facts and circumstances of this case are entirely different from the facts obtaining in the case before the Hon'ble Supreme Court.

12. In the result, this petition is devoid of merits and stands dismissed. Consequently, connected miscellaneous petition is closed.

gya

s/d-
Assistant Registrar(CO)

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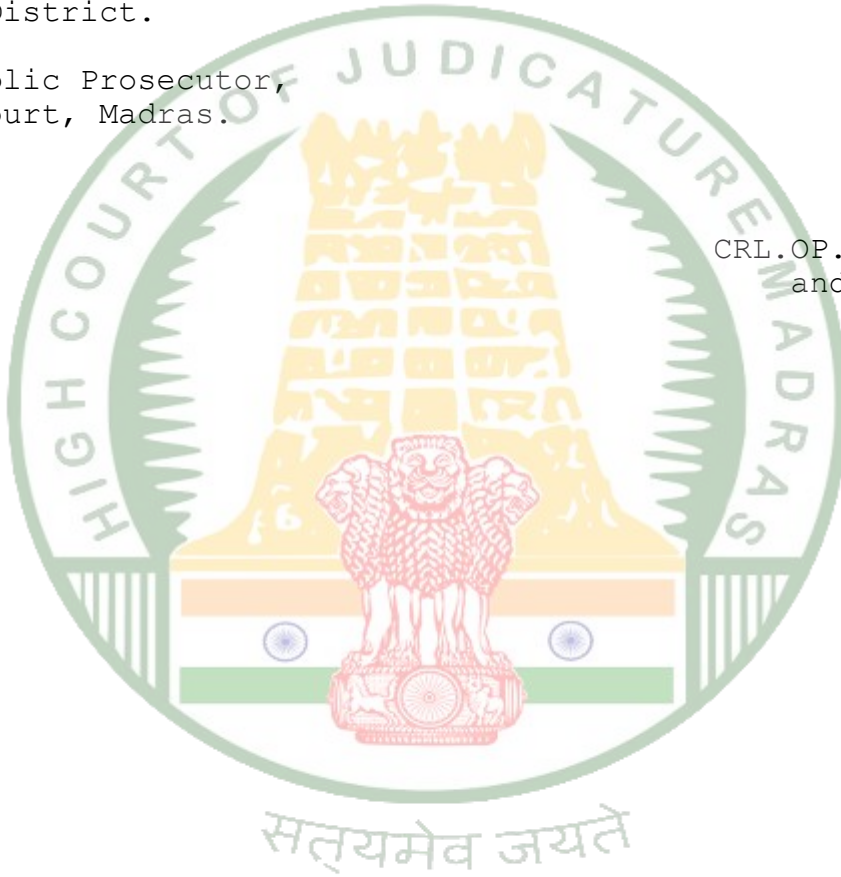
Sub-Assistant Registrar

To

1. The Principal Sessions Court,
Erode.
2. The 1st Additional Sessions Court,
Erode.
3. The Inspector of Police,
Erode Police Station,
Erode District.
4. The Public Prosecutor,
High court, Madras.

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