

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P. No. 31973 of 2014
and
M.P.No.1 of 2014

R.Srinivasan

...Petitioner

vs.

G.Lavakumar

...Respondent

PRAYER : Criminal Original Petition filed under Section 407 of the Code of Criminal Procedure praying to pass appropriate orders to withdraw and transfer the aforesaid case S.T.C. No.6 of 2013 pending before the learned Judicial Magistrate No.III at Salem to the Judicial Magistrate, Mannargudi, Thiruvarur District.

For Petitioner : Mr.M.Balaji

For Respondent : Mr.K.Moorthy

O R D E R

This petition is filed seeking for transfer of the case in STC No.6 of 2013 pending on the file of the learned Judicial Magistrate No.III, Salem to the learned Judicial Magistrate, Mannargudi, Thiruvarur District, on the basis of the Hon'ble Supreme Court's judgment reported in (2014) 3 MLJ (CRL) 475 in the matter of Dashrath Rupsingh Rathod Versus State of Maharashtra and another.

2. It is submitted by the learned counsel for the petitioner that the respondent herein gave false address and also attempted to attack him while the petitioner took steps to appear before the Court and a case was registered against the respondent on the basis of a complaint given by the petitioner in that regard and therefore, the

petitioner's life is in danger and therefore, the case has to be transferred.

3. It is submitted by the learned counsel for the respondent that in STC No.6 of 2013, trial has commenced and PW.1 and PW.2 were examined by filing proof affidavit and thereafter, the case was posted for questioning the accused and the petitioner herein filed an Application to recall PW.1 and PW.2 and the case is pending at that stage. He also submitted that as per the Hon'ble Supreme Court's judgment reported in (2014) 3 MLJ (CRL) 475 supra, when the trial has commenced, the case can be tried by the same Court irrespective of the place of the bank which dishonoured the cheque.

4. It is seen from the affidavit filed in support of the case that the petitioner seeks transfer on the ground of the Hon'ble Supreme Court's judgment reported in (2014) 3 MLJ (CRL) 475 supra. It is also not in dispute that the respondent examined himself as PW.1 and also another witness as PW.2 by filing proof affidavit, they were not cross-examined, the prosecution case was closed and the case was posted for questioning the accused under Section 313 of the Cr.P.C. and at that time, an Application was filed to recall and the same was ordered. Therefore, in view of the Hon'ble Supreme Court's judgment reported in (2014) 3 MLJ (CRL) 475 supra that when the trial has commenced, the same Court can proceed with the case, the ground on which the transfer is sought for is not available to the petitioner. As regards the other contention of the petitioner that he was prevented from appearing before the Court, the same has not been made as a ground here. Hence, the same cannot be considered.

5. In the result, this Petition is dismissed. The connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar

asvm

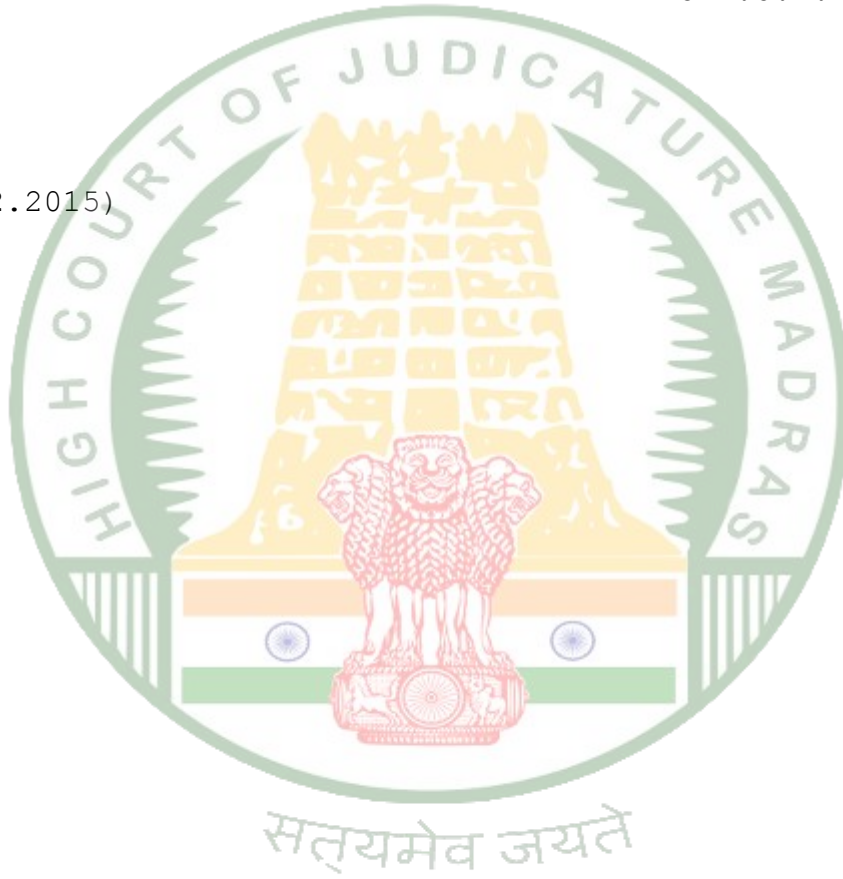
To

The Judicial Magistrate No.III,
Salem.

1 CC to M/s. K.Moorthy, Advocate SR.No. 4559

CRL.O.P. No.31973 of 2014
and
M.P.No.1 of 2014

CA (CO)
PSI (11.02.2015)



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