

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Cr1.OP No.17352 of 2015
& M.P.No.1 of 2015

K.Malarvizhi

.. Petitioner

Vs

1. State rep. by:

Deputy Superintendent of Police
Vigilance and Anti Corruption Wing
Salem

2. S.Balu @ Balapusphan

... Respondents

Prayer:- Criminal Original Petition filed under Section 407 Cr.P.C., to withdraw the case in Spl.C.C.No.116/2014 on the file of Special Court for Prevention of Corruption Act Cases, Salem and transfer the same to some other court of equal competent jurisdiction.

For Petitioner
For Respondent

: Mr.K.V.Sridharan
: Mr.P.Govindarajan
Additional Public Prosecutor
for R1
Mr.Vairamoorthy for R2

ORDER

This Criminal Original Petition has been filed under section 407 of the Code of Criminal Procedure, 1973 praying to withdraw the Special Calendar Case No.116/2014 from the file of Special Court for Prevention of Corruption Act Cases, Salem and transfer the same to some other court.

2. It is averred in the petition that the petitioner has been arrayed as first accused in Special Calendar Case No.116/2014 on the file of Special Court for Prevention of Corruption Act Cases, Salem. Further it is stated in the petition that on 12.6.2015, at about 12.30 p.m., the counsel appearing for the petitioner has cross-examined P.W.2. On the same day, learned counsel appearing for the second accused has sought time for cross-examining P.W.2. At that time, the Special Judge has stated that adjournment will not be granted since he received lot of pressure. Further, he directed the concerned Inspector of Police, Kannankurichi Law and order, not to take any action on three complaints given by the complainant against the first accused. Since the said occurrence has taken place on 12.6.2015, the concerned counsel has handed over the case bundle. Under the said circumstances, the present petition has been filed for getting the relief sought for therein.

3. Since allegations have been made against the Special Judge, Salem, this Court has called for report from him and accordingly, he submitted a report, wherein he denied the allegations levelled against him in the petition. Further, he stated that the counsel appearing for the 2nd accused has suffered from Typhoid on 12.6.2015 and under the said circumstances also, at his request, adjournment has been granted.

4. The learned counsel appearing for the petitioner has contended that on 12.6.2015, while the counsel for the 2nd accused has sought for adjournment so as to cross-examine P.W.2, the Presiding Officer has openly stated that he received lot of pressure and therefore adjournment will not be given. Further, the Presiding Officer has directed the concerned Inspector of Police not to take any action on the basis of three complaints given by the complainant. Under the said circumstances, the petitioner is having apprehension in his mind and therefore the present petition has been filed for getting the relief sought for therein.

5. The learned Additional Public Prosecutor has contended that no such occurrence has taken place on 12.6.2015 and no comment has been made by the Presiding Officer on such date and further on the side of the prosecution, P.Ws 1 and 2 are examined and therefore the present petition deserves to be dismissed.

6. It is seen from the records that the present petitioner has been arrayed as first accused in Special Calendar Case No.116 of 2014. It is also seen from the explanation submitted by the Special Judge that in Special Calendar Case No.116 of 2014, P.Ws. 1 and 2 have been examined and on 12.6.2015, the counsel appearing for the 2nd accused, due to his illness, has sought for adjournment and the same has also been granted.

7. In fact, this Court has meticulously perused the allegations levelled against the Presiding Officer and ultimately found that the Presiding Officer might have made a casual remark and that itself would not pave the way for transferring the case to some other court. Therefore, viewing from any angle, the present petition cannot be allowed.

In fine, this Criminal Original Petition is dismissed. However, the Special Judge for Prevention of Corruption Act Cases, Salem is directed to examine witnesses and also dispose of Special C.C.No.116 of 2014 as early as possible, without giving any room for levelling allegations. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

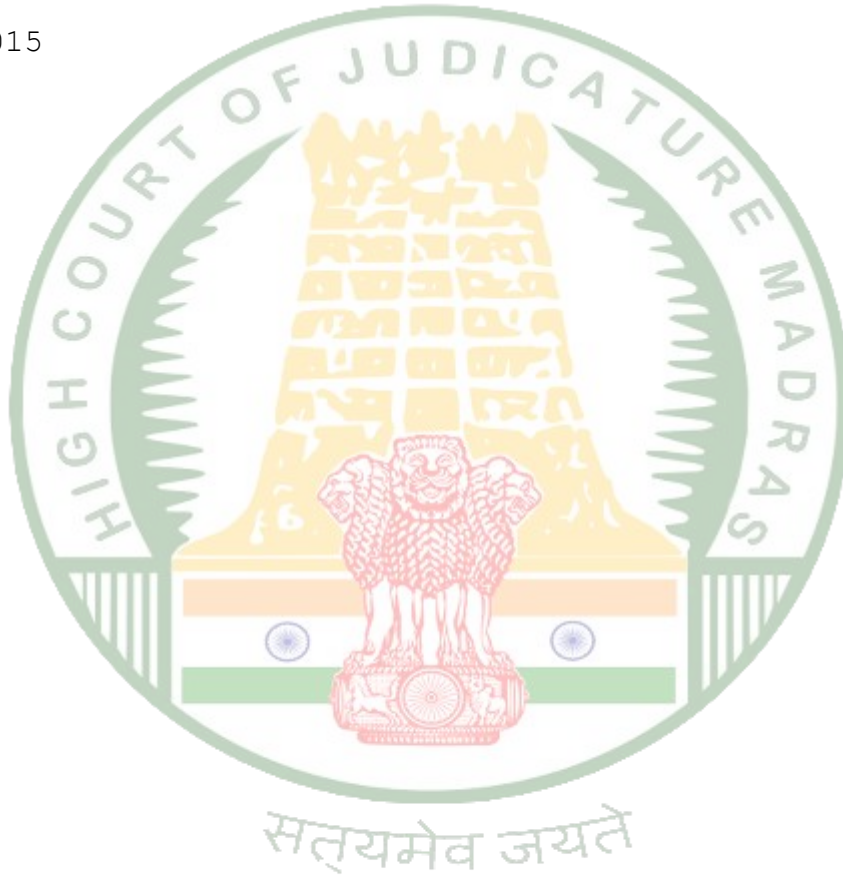
1. The Special Judge for Prevention of Corruption Act Cases, Salem
2. The Deputy Superintendent of Police
Vigilance and Anti Corruption Wing
Salem

1 cc to Public Prosecutor, High Court, Madras Sr.No.42985

1 cc to Mr.K.V.Sridharan, Advocate Sr.No.43070

Cr1.O.P No.17352 of 2015

ksj (co)
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