



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2015

CORAM:

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Crl.O.P(MD)No.21298 of 2015

1.Thinagararaja
2.R.Jeyapaul
3.Jeyam Mery
4.Kanagaraaj
5.Ruby

: Petitioners/Respondents

Vs.

Subathra Mary

: Respondent/Petitioner

PRAYER: Criminal Original Petition is filed under Section 482 Cr.P.C., to transfer the case into transfer D.V.O.P.NO. 4 of 2015 from the Court of Judicial Magistrate, Kodaikanal to any other Court of Judicial Magistrate, at Theni District.

For Petitioners : Mr.N.Dilip Kumar

For Respondent : No appearance

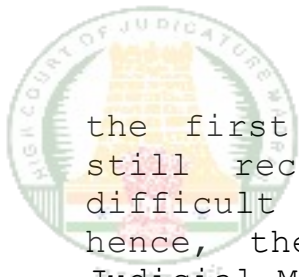
ORDER

This petition has been filed under Section 482 Cr.P.C seeking transfer of the case in D.V.O.P.NO. 4 of 2015 from the Court of Judicial Magistrate, Kodaikanal to any other Court of Judicial Magistrate, at Theni District.

2. The case of the petitioners is as follows:

i) Due to misunderstanding between the first petitioner and his wife/respondent, the wife filed D.V.O.P.NO.4 of 2015 through the Social Welfare Officer under Sections 18 and 20 of the Protection of Women from Domestic Violence Act, 2005. Thereafter, she also moved an application in C.M.P.No. 2744 of 2015 to hand over the custody of the minor children to her and in that petition, interim order was passed on 28.07.2015 to handover the custody of the children to the wife and the petitioner/husband preferred an appeal against the said order and the appeal was dismissed by the Principal Sessions Judge, Dindigul in Crl. Appeal No. 32 of 2015 on 28.09.2015.

ii) Thereafter, on 02.10.2015, the wife along with her family people entered into the house of the petitioner and they attacked the petitioner with arival and due to that attack, serious injuries have been caused to the petitioner and the mother and sister of the petitioner, who came to save him, were also got beaten by them. They also damaged all household articles. Since



the first petitioner has sustained grievous injury, he is not still recovered completely and the petitioners find it very difficult to attend the court for every hearing at Kodaikanal and hence, they seek transfer of the case to any other Court of Judicial Magistrate at Theni District.

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3. This Court on 05.11.2015 ordered private notice to the respondent/wife for which, proof of service has already been filed. Though the respondent was duly served, she has not chosen to appear before this Court either in person or through a counsel.

4. The learned counsel for the petitioners submitted that the case in D.V.O.P. No.4 of 2015 was posted before the trial court on 24.11.2015 and due to threat to life, the petitioners have come forward with this application for transfer of the case.

5. This Court has considered the submissions of the learned counsel appearing for the petitioners.

6. For the sake of convenience, Section 26 of the Protection of Women from Domestic Violence Act, 2005 is extracted hereunder:

Section 26-Relief in other suits and legal proceedings: (1) Any relief available under Sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding before a civil Court, family Court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal Court.

7. Considering the facts and circumstances of the case, the case in D.V.O.P.No.4 of 2015 is directed to be transferred from the file of the Judicial Magistrate, Kodaikanal to the Sub Court, Periyakulam, Theni District. The Judicial Magistrate, Kodaikanal is directed to transmit the records to the Sub Judge, Periyakulam Theni District. On receipt of records, the Sub Judge, Periyakulam, Theni District is directed to dispose of the case as expeditiously as possible, by conducting the case on day to day basis, without adjourning the matter beyond five working days at any point of time.

8. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected M.P is closed.

Sd/-

Assistant Registrar (Per.Admn)

/True Copy/

Sub Assistant Registrar.



CM

To,

1. The Judicial Magistrate, Kodaikanal.

2. The Sub Judge, Periyakulam, Theni District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr. N. Dilipkumar Advocate Sr. No. 67389

CSL.GSV/AN/4.12.2015-3P-5C

Order made in
Crl.O.P (MD) No. 21298 of 2015
Dated: -23.11.2015