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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2015

CORAM :

**THE HONOURABLE MR.JUSTICE C.T.SELVAM**

CRL.OP(MD)Nos.22690 to 22692 of 2014

and

MP(MD)No.1,1 & 1 of 2014

**In Crl.O.P.No.22690 of 2014:**

Zahir Hussain @ Maan Bai ... Petitioner/Prosecution Witness No.3

Vs.

1 The Inspector of Police,  
Eppothumvendran Police Station,  
Eppothumvendran,  
Vilathikulam Sub-Division,  
Tuticorin District.  
(Crime No.43 of 2006)

...1<sup>st</sup> Respondent/Complainant

2.Dhanasingh

... 2<sup>nd</sup> Respondent

(R2 is impleaded vide order dated 03/02/15  
in MP(MD)No.2/14 in Crl.OP(MD)No.22690/14)

**PRAYER:** Petition filed under Section 482 of the Criminal Procedure Code to transfer the Sessions case in S.C.No.93 of 2014 on the file of the I Additional District and Sessions Judge, Tuticorin, to the file of any other Sessions Court and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

**In Crl.O.P.No.22691 of 2014:**

Zahir Hussain @ Maan Bai ... Petitioner/Prosecution Witness No.3

Vs.

1. The Inspector of Police,  
Eppothumvendran Police Station,  
Eppothumvendran,  
Vilathikulam Sub-Division,  
Tuticorin District.  
(Crime No.43 of 2006)

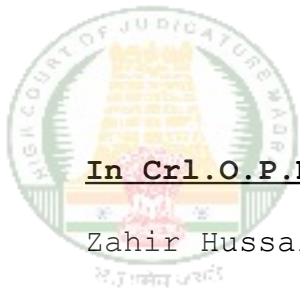
...1<sup>st</sup> Respondent/Complainant

2. A.Subash Pannaiyar

...2<sup>nd</sup> Respondent

(R2 is impleaded vide order dated 03/02/15  
in MP(MD)No.2/14 in Crl.OP(MD)No.22691/14)

**PRAYER:** Petition filed under Section 482 of the Criminal Procedure Code to transfer the Sessions case in S.C.No.96 of 2014 on the file of the I Additional District and Sessions Judge, Tuticorin, to the file of any other Sessions Court and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.



**In CrI.O.P.No.22692 of 2014:**

Zahir Hussain @ Maan Bai

... Petitioner/Prosecution Witness No.3

Vs.

The Inspector of Police,  
Eppothumvendran Police Station,  
Eppothumvendran,  
Vilathikulam Sub-Division,  
Tuticorin District.  
(Crime No.43 of 2006)

...Respondent/Complainant

**PRAYER:** Petition filed under Section 482 of the Criminal Procedure Code to transfer the Sessions case in S.C.No.95 of 2014 on the file of the I Additional District and Sessions Judge, Tuticorin, to the file of any other Sessions Court and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.P.Andiraj  
(in three petitions) for Mr.P.Rajkumar

For Respondent : Mr.P.Kannidevan  
(in three petitions) Government Advocate (CrI. Side)

For impleaded 2<sup>nd</sup> Respondents : Mr.A.Ramesh, Senior Counsellor for  
Mr.D.Shanmugaraja Sethupathi  
in CrI.OP (MD) No.22690/2014

: Mr.N.R.Elango, Senior Counsel for  
Mr.D.Shanmugaraja Sethupathi  
in CrI.OP (MD) No.22691/14

**C O M M O N    O R D E R**

The petitioner informs of being the third Prosecution Witness in cases pending trial in S.C.Nos.93,95 and 96 of 2014 before the learned I Additional District and Sessions Judge, Tuticorin. All such cases arise out of Crime No.43 of 2006 on the file of the respondent registered for offences under Sections 147, 148, 341, 324, 307 and 302 r/w Sections 3 and 4 of Explosive Substances Act and Section 25(1)(b) of Arms Act.

2. We have heard the learned counsel on either side and also perused the interim order passed by this Court on 15.12.2014.

3. Learned Government Advocate (CrI.side) submits that in the list of Prosecution Witnesses, P.W.s 4 and 5, who also have not been examined, are deceased.

4. Very many wild allegations have been made in the petitions seeking transfer. We are not so much as considering the same. However, in circumstance where the cases stand posted for judgment before the Court, this Court passed an interim order dated 15.12.2014, having taken note of the position that the petitioner/P.W.3 in the cases wishes to be examined and there is apprehension of life threat, this



Court would find a balance by directing as follows:

i) The undertaking made on behalf of the petitioner to appear before the trial court on 11.02.2015 and 12.02.2015 is recorded. The respondent police shall afford protection to the petitioner on such dates. In the event of the petitioner not appearing before the trial court for any reason whatsoever, it would be open for the trial court to proceed further and pronounce judgment.

ii) The learned I Additional District and Sessions Judge, Tuticorin, is directed to cause examination of the petitioner on 11.02.2015 and if necessary also on 12.02.2015. We would also record the undertaking that cross examination on behalf of the accused would be conducted on the same dates.

iii) After examination of witnesses as above directed, the learned I Additional District and Sessions Judge, Tuticorin, shall complete the process under Section 313 Cr.P.C and proceed further to pronounce judgment, which shall be delivered on or before 09.03.2015.

5. With the above directions, the Criminal Original Petitions are disposed of. Consequently, connected M.P.s are closed. Since the impleading petitions in M.P.(MD) Nos.2 of 2014 in Crl.O.P.Nos. 22690 and 22691 of 2014 are allowed, the Registry is directed to issue order copy after carrying out necessary amendment in the said petitions.

Sd/-

Assistant Registrar(RTI)

/TRUE COPY/

Sub Assistant Registrar

To

1.The I Additional District & Sessions Judge,  
Tuticorin.

2.The Inspector of Police,Eppothumvendran Police Station,  
Eppothumvendran,Vilathikulam Sub-Division,Tuticorin District.

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

+1cc to Mr.P.Rajkumar,Advocate, SR.No.5190

+3ccs to Mr.D.Shanmugaraja Sethupathi,Advocate, SR.No.4907

CRL.O.P(MD) Nos.22690 to 22692/2014  
03.02.2015

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