

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.07.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.14938 of 2016

and CRL.M.P.No.7419 of 2016

1.T.Kothainayaki

2.T.Indra

... Petitioners

Vs

1.State rep by its
Inspector of Police,
Economic Offence Wing,
Anna Nagar, Chennai.

2.M/s.Tamil Nadu Finance and Investments,
4-D Flat, 4th Floor, Prasanth Apartment,
South Mada Street,
Mylapore, Chennai.

3.S.Radhakrishnan

4.R.Chandrasekaran

... Respondents

Criminal Original Petition filed under Section 407 Cr.P.C.,
praying to transfer C.C.No.221 of 2015 on the file of the III
Metropolitan Magistrate Court, George Town Court complex to the
file of any other Magistrate with ramp and lift facility.

For Petitioners : Mr.R.Thiagarajan
for Mr.R.Thirumalai

For 1st Respondent : Mr.C.Emalias, APP

O R D E R

This petition has been filed to transfer C.C.No.221 of 2015
from the file of the III Metropolitan Magistrate Court, George
Town to the file of any other Magistrate with ramp and lift
facility.

2. Heard the learned counsel for the petitioners; learned
Additional Public Prosecutor appearing for the 1st respondent and
perused the materials placed on record.

3. On the complaint lodged by the petitioners, the Police registered a case in Crime No.902 of 2008 on 09.12.2008 and after completing the investigation, has filed final report in C.C.No.221 of 2015 before the learned III Metropolitan Magistrate, George Town, Chennai against six accused. Charges were framed against the accused and the trial Court has issued summons for the appearance of Kothainayaki and her sister Indra for giving evidence and at this juncture, they have filed the present petition to transfer C.C.No.221 of 2015 from the file of III Metropolitan Magistrate Court, George Town to any other Court on two grounds:

[i] That the III Metropolitan Magistrate Court is situated in the first floor and there is no lift facility. Both of them are more than 75 years old and suffer from serious ailments and may not be able to even climb the staircase for giving evidence in the Court.

[ii] That one R.Chandrasekaran/A3 is a practicing lawyer in the George Town Bar Association and therefore, the trial will not be free and fair.

4. Though there appears be much force in the submission of the petitioners/witnesses, in the considered opinion of this Court, they cannot be good grounds to transfer of the case to any other Court as it would only further prolong the trial. Under such circumstances, the 1st respondent Police is directed to take the petitioners herein for giving evidence and inform the learned III Metropolitan Magistrate about it. The learned III Metropolitan Magistrate is directed to hold court sittings in the ground floor court, namely, XV Metropolitan Magistrate court hall at a convenient time fixed in consultation with the learned XV Metropolitan Magistrate and record the deposition of the witnesses. As victims, they will be entitled to the assistance of a lawyer. The learned III Metropolitan Magistrate shall ensure that there shall be no interference by R.Chandrasekaran/A3 in the due process of law and if any attempt is made, send a report to the Tamil Nadu Bar Council for appropriate disciplinary action against R.Chandrasekaran/A3. The trial Court can also send a report to this Court so that contempt action can be initiated, if there is any interference in the course of justice by the said R.Chandrasekaran. The accused shall cross-examine the witnesses on the day they are examined in-chief as directed by the Hon'ble Supreme Court in Vinodh Kumar Vs State of Punjab reported in 2015[1] MCJ [Cr1] 288. Permission is granted to the learned III Metropolitan Magistrate to continue the sitting, even after the court hours for completing the deposition of the witnesses. If the accused any dilatory tactics, they can be remanded to custody as held by the Hon'ble Supreme Court in State of Uttarpradesh Vs Shambu Nath Singh reported in JT 2001[4] SC 319.

With the above direction, this petition is closed.
Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The III Metropolitan Magistrate,
George Town.

2.The XV Metropolitan Magistrate,
George Town, Chennai.

3.The Inspector of Police,
Economic Offence Wing,
Anna Nagar, Chennai.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Thirumalai, Advocate Sr.40334

CRL.OP.No.14938 of 2016

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