

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Cr1.O.P. No.22837 of 2016

1. Anandarao
2. Kantha Rao
3. Srinivasa Rao
4. Subashkumar Doss
5. Ramesh @ Sathya Ramesh
6. Kumar
7. Sivaguru
8. Ravikumar
9. Subramanian
10. Venkat @ Venkatji @ Venkatesan
11. Senthilkumar
12. Thiagarajan
13. Mohanasundaram @ Mohan @ Ilayaraja
14. Sridharraj @ Balan
15. Gnanam @ Gnanasekaran
16. Praveenkumar
17. Dr. Suresh
18. Ramesh
19. Anbu
20. Balaji
21. Rangaraj
22. Vivekanandan
23. Boopesh
24. Arun
25. Sureshkumar

Petitioners

vs.

1. The Deputy Superintendent of Police
Crime Branch CID, Coimbatore
2. Karuppusamy
Deputy Tahsildar
Special Projects
Taluk Office
Harur, Dharmapuri District
(Dharmapuri Kambainallur P.S. Cr.No.277 of 2012)
3. E. Liyakath Ali
Special Tahsildar (Civil Supplies)
Special Officer

Mobile Unit for TNPSC Examination
Erode District
(Erode Town P.S. Cr.No.1423 of 2012)

4. Hrishikesh Kundu
5. Kethra Mohan Manthan
6. Gagan Bihari Senapathy @ Gagan
7. Kumar @ Karthik @ Karthikeyan
8. Deva @ Devanand

Respondents

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to issue a direction to either club both cases try at one trial in C.C. No.11 of 2014 pending before the Judicial Magistrate No.1, Dharmapuri along with C.C. No.14 of 2014, pending before the Judicial Magistrate No.III, Erode or both the cases may be clubbed and tried together at Erode.

For petitioners Mr. Shanmugasundaram, Sr. Counsel
for Mr. A. Gopinath

For RR 1 - 3 Mr. C. Emalias
Addl. Public Prosecutor

For R4 Mr. B. Kumar, Sr. Counsel
for Mr. Abudu Kumar Rajaratnam

ORDER

This Criminal Original Petition has been filed seeking the following prayer:

"to issue a direction to either club both cases try at one trial in C.C. No.11 of 2014 pending before the Judicial Magistrate No.1, Dharmapuri along with C.C. No.14 of 2014, pending before the Judicial Magistrate No.III, Erode or both the cases may be clubbed and tried together at Erode."

2 On the complaint lodged by the Deputy Tahsildar, Special Projects, Harur, the second respondent herein, the Kambainallur Police registered a case in Crime No.277 of 2012 on 12.08.2012 under Sections 120-B, 417, 420, 465 and 468 IPC against one Suresh Kumar and 5 others.

3 The crux of the allegation in the aforesaid complaint is that on 12.08.2012, when the examination for TNPSC-Group II

were going on at various centres in Kambainallur, the Deputy Tahsildar, Special Projects, Harur, who was in charge of the examination, on intelligence that questions papers were found to be leaked, seized the copies of the same outside the examination hall. Hence, the FIR.

4 Likewise, on the complaint lodged by one Liyakath Ali, Special Tahsildar, Civil Supplies, Special Officer, Mobile Unit for TNPSC Examination, Erode District, the Erode Town Police Station registered a case in Crime No.1423 of 2012 on 13.08.2012 for offences under Sections 120-B, 406 and 420 IPC against one Senthil and others.

5 The crux of the allegation in the aforesaid complaint is that during the TNPSC-Group II examination, the Special Tahsildar (Civil Supplies), who was in charge of the said examination was on inspection and he found leaked question papers in the examination centres in Erode. Hence, the FIR.

6 Based on the orders of the Director General of Police, the case in Kambainallur P.S. Crime No.277 of 2012 and the case in Erode Town P.S. Crime No.1423 of 2012 were transferred to the file of the CB-CID, Coimbatore for investigation and the investigation was taken over the Deputy Superintendent of Police, CB-CID, Coimbatore. After completing the investigation, the Deputy Superintendent of Police, CB-CID, Coimbatore, filed two final reports, viz., C.C. No. 14 of 2014 in Erode Town P.S. Crime No.1423 of 2012 before the Judicial Magistrate Court No.III, Erode, against 30 accused and C.C. No.11 of 2014 in Kambainallur P.S. Crime No.277 of 2012 before the Judicial Magistrate Court No.I, Dharmapuri, against 30 accused. It is seen that most of the accused and also witnesses are common in both the cases. Under such circumstances, the petitioners who are the accused in both the cases, are before this Court for clubbing the two Calendar Cases and for a joint trial.

7 Heard Mr. Shanmugasundaram, learned Senior Counsel appearing for the petitioners/accused, Mr. C.Emalias, learned Additional Public Prosecutor for respondents 1 to 3 and Mr. B. Kumar, learned Senior Counsel appearing for the fourth respondent. Mr. R. Muthusamy, Deputy Superintendent of Police, CB-CID, Coimbatore is present.

8 The learned Additional Public Prosecutor submitted that the State has no serious objection for transfer of both the cases to one of the Courts for simultaneous trial, but, not clubbing or joint trial, as both of them are distinct transactions.

9 The other accused who are not petitioners in this

petition have been arrayed as respondents and the learned counsel representing them also submitted that they have no objection in transfer.

10 On a perusal of the final reports in both the cases, this Court finds that most of the witnesses in both the cases are common and most of the witnesses hail from in and around Erode.

11 Ergo, in the interest of justice, this Court is of the considered view that it will be in the fitness of things, if C.C. No.11 of 2014 is transferred from the file of the Judicial Magistrate Court No.I, Dharmapuri, to the file of the Judicial Magistrate Court No.III, Erode, to be tried simultaneously. It is true that simultaneous trial is different from clubbing or joint trial.

12 Accordingly, this Court directs the Judicial Magistrate No.I, Dharmapuri, to transfer all the records in C.C. No.11 of 2014 to the file of the Judicial Magistrate Court No.III, Erode, within a period of four weeks from the date of receipt of a copy of this order. The Judicial Magistrate No.I, Dharmapuri, is further directed to obtain necessary muchalika from all the accused to appear before the Judicial Magistrate No.III, Erode, on a specific date and send the muchalika to the said Court in advance, so that fresh summons need not be issued to the accused by the Judicial Magistrate No.III, Erode. Bail bonds and properties deposited, if any, shall also be transferred along with the records to the Judicial Magistrate No.III, Erode.

This Criminal Original Petition stands ordered accordingly.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Judicial Magistrate No.I, Dharmapuri
- 2 The Judicial Magistrate No.III, Erode

3 The Deputy Superintendent of Police
Crime Branch CID
Coimbatore

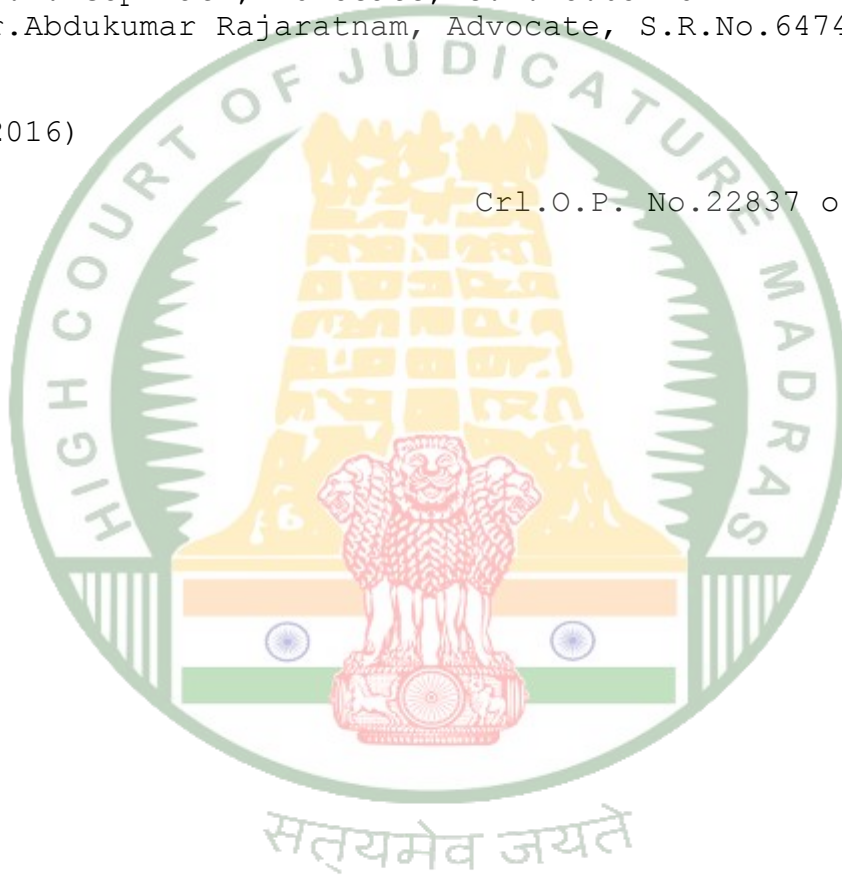
4 The Public Prosecutor
Madras High Court
Chennai 600 104

+lcc to Mr.A. Gopinath, Advocate, S.R.No.63778

+lcc to Mr.Abdukumar Rajaratnam, Advocate, S.R.No.64742

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md(22/11/2016)

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