

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2016

CORAM

THE HONOURABLE MS.JUSTICE R. MALA

CRL.O.P.No.2913 of 2016

Poomalai .. Petitioner/Accused/De facto complainant

... Vs ...

1. The State Rep. by,
Sub-Inspector of Police,
Mangala Puram Police Station,
Namakkal District. ... 1st Respondent/Complainant

2. T.M.Ramasamy
3. Guru @ Kandasamy
4. Pachakutti Raja
5. Balamurugan
6. Thanghavel
7. Vengadachalam
8. Palani Muthu
9. Marimuthu
10. Manimaran Boopathy
11. Subramani ... Respondents 3 to 11/Accused 2 to 10

Prayer:- Criminal Original Petition filed under Section 407 of the Code of Criminal Procedure, praying to club the C.C.No.338 of 2012 pending before the Judicial Magistrate, Rasipuram, to Assistant Sessions Court, Rasipuram and direct the Assistant Sessions Court, Rasipuram, to try C.C.No.338 of 2012 and S.C.No.02 of 2014 simultaneously.

For Petitioner : Mr.A.S.Prabu
For R-1 : Mr.C.Emalias,
Additional Public Prosecutor
For R-2 to R-11: No Appearance

ORDER

The petitioner has come forward with this petition under Section 407 of the Code of Criminal Procedure, seeking to club the C.C.No.338 of 2012 pending before the learned Judicial Magistrate, Rasipuram, to Assistant Sessions Court, Rasipuram and direct the Assistant Sessions Court, Rasipuram, to try C.C.No.338 of 2012 and S.C.No.02 of 2014 simultaneously.

2. Learned counsel for the petitioner would submit that on 18.05.2012 at 7.15 p.m., there was a dispute between the petitioner and the second respondent in respect of demolition of burial ground and as a result of which, the second respondent along with his men attacked the petitioner and in the said incident, the petitioner sustained grievous injuries. Therefore, the petitioner has given a complaint before the first respondent police and on the basis of the said complaint, a case in Crime No.205 of 2012 for the offences punishable under Sections 341, 147, 148, 324, and 506(ii) of IPC has been registered against the second respondent and after due investigation, a charge sheet has been levied and the same was taken on file by the learned Judicial Magistrate, Rasipuram, in C.C.No.338 of 2012. Regarding the same incident, the second respondent also lodged a counter complaint and on the basis of the said complaint, a case in Crime No.204 of 2012 for the offences punishable under Sections 147, 148 and 324 and 307 of IPC has been registered. After due investigation, a charge sheet has been levied against the petitioner in P.R.C.No.13 of 2013 before the learned Judicial Magistrate, Rasipuram, and the same has been committed to the Court of Sessions and now it is pending before the learned Assistant Sessions Judge, Rasipuram as S.C.No.2 of 2014. Since both the cases arising out of the same incident, both the cases have to be tried by the same Judge and hence, the petitioner has come forward with this petition for the above stated relief.

3. Heard the learned Additional Public Prosecutor appearing for the first respondent, who fairly conceded that it is a case and counter and therefore, both the cases have to be tried simultaneously and not jointly.

4. Even though the respondents 2 to 11 have been served, there is no representation on their behalf, in spite of the case is posted under the caption for orders.

5. Considering the rival submissions made by the learned counsel for the petitioner as well as the learned Additional Public Prosecutor and also considering the fact that since both the cases arising out of the same incident, the case in C.C.No.338 of 2012 pending before the learned Judicial Magistrate, Rasipuram, is ordered to be withdrawn and the same is transferred to the file of the learned Assistant Sessions Judge, Rasipuram, where S.C.No.2 of 2014 is pending. The learned Assistant Sessions Judge, Rasipuram, is directed to try both the cases viz., C.C.No.338 of 2012 and S.C.No.02 of 2014 simultaneously.

6. With the above direction, this Criminal Original Petition is disposed of.

Jrl

s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate,
Rasipuram.
 2. The Assistant Sessions Judge,
Rasipuram.
 3. The Sub-Inspector of Police,
Mangala Puram Police Station,
Namakkal District.
 4. The Public Prosecutor,
High Court, Madras.
- + 1 cc to Mr.A.S.Prabhu, Advocate, SR 14475

vgi (co)
prk22/3

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