

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE R.MALA

Cr1.O.P.No.3034 of 2016

And

Cr1.M.P.No.1551 of 2016

Chinna Ponnu

... Petitioner

Vs.

State by Inspector of Police,
Palacode Police Station,
Dharmapuri District.
(Crime No.356 of 2015)

... Respondent

Prayer :

Criminal Original Petition filed under Section 407 of the Code of Criminal Procedure, praying to order transfer of the above case in S.C.No.4 of 2016 from the file of the learned Chief Judicial Magistrate, Dharmapuri to the file of any other competent court having jurisdiction to try the said case.

For Petitioner : Mr.S.Muthu Durai

For Respondent : Mr.C.Emalias
Additional Public Prosecutor

ORDER

The petitioner/L.W.1 has come forward with this petition seeking transfer of S.C.No.4 of 2016 on the file of the learned Chief Judicial Magistrate, Dharmapuri to any other competent Court having jurisdiction to try the said case.

2.Heard the submissions made by the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

3.The learned counsel appearing for the petitioner would submit that on the basis of the complaint given by the petitioner, case has been registered and after due investigation charge sheet has been filed and it was taken on file in S.C.No.4 of 2016 and made over to Chief Judicial Magistrate, Dharmapuri for disposal. He would further submit that the petitioner was not given proper opportunity to submit her submissions and

objections and without affording any opportunity, the learned Judicial Magistrate, Dharmapuri is acting in favour of the accused and hence, prayed for transfer of the case.

4.The report received from the learned Chief Judicial Magistrate, Dharmapuri would reveal that the case in S.C.No.4 of 2016 which was taken on file by the Principal District Judge Court, Dharmapuri was made over to the Court on 08.01.2016 and posted to 21.01.2016 for appearance of the accused and on 21.01.2016 all the accused appeared along with counsel and the case was adjourned to 22.01.2016 for further proceedings and on 22.01.2016, arguments were heard from both accused side and prosecution side and charges were framed against the accused. Then, the matter was adjourned to 04.02.2016 for trial. On that day summons were not served to L.W.1, immediately, the learned Magistrate sent a communication to the Superintendent of Police, Dharmapuri to take action against the erring officials since the Investigating Officer has not produced the witnesses. Immediately, the matter was adjourned to 05.02.2016 and on that day L.Ws.2, 3, 5 and 6 were submitted before the Court and they were examined as P.W.1 to P.W.4 and Ex.P1 was marked and fresh summons to L.Ws.1, 4 and 7 was ordered and the case was adjourned to 12.02.2016. On 12.02.2016, L.W.1 appeared and produced the copy of the order of this Court and hence, the case is adjourned to 11.03.2016.

5.The reasons assigned by the petitioner does not merit acceptance because, she want to get some orders to drag on the proceedings. She has not received the summons, she has not appeared before the Court on 04.02.2016 and when the matter was posted on 12.02.2016, she appeared before the Court and produced the copy of the order of this Court and this shows her malafide intention to drag on the proceedings. But, however, there is apprehension in the mind of the petitioner that she will not get proper justice from the Court of the Chief Judicial Magistrate, Dharmapuri. So, it is the duty of this Court to dispel the suspicion from the mind of the petitioner.

6.Hence, this Court is of the view that the S.C.No.4 of 2016 pending on the file of the learned Chief Judicial Magistrate, Dharmapuri is to be transferred to the file of some other competent Court. Accordingly, S.C.No.4 of 2016 pending on the file of the learned Chief Judicial Magistrate, Dharmapuri is ordered to be transferred to the file of the learned Assistant Sessions Judge (Sub-Judge), Dharmapuri with a direction to dispose of the case in S.C.No.4 of 2016, within a period of two months from the date of receipt of a copy of this order, after giving fair opportunity to both side. This Court feels that the action of the petitioner is not appreciable.

7.This Criminal Original Petition is accordingly disposed of. Consequently, the connected miscellaneous petition is also closed.

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-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The learned Chief Judicial Magistrate,
Dharmapuri

2. The Inspector of Police,
Palacode Police Station,
Dharmapuri District.
(Crime No.356 of 2015)

3. The Public Prosecutor
High Court, Madras.

+ 1 cc to Mr.S.Muthudurai, Advocate, SR 12947

svi(co)
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