

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2016

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.8715 of 2016
and Crl.MP.Nos.4556 & 4557 of 2016

P.K.Rajesh Khanna

...

Petitioner

Vs

M.P.Kumaran

...

Respondent

Prayer: Criminal Original Petition filed under Section 407 r/w. Section 482 Cr.P.C. to withdraw the case in STC.No.836 of 2016 on the file of the learned Judicial Magistrate, Tambaram, to any one of the Metropolitan Magistrate Court situated at Saidapet, Chennai-15, U/s.407 of Cr.P.C.

For Petitioner :Mr.M.Murali

For Respondent :Mr.K.R.Ramesh Kumar

ORDER

This Criminal Original Petition has been filed seeking to withdraw the case in STC.No.836 of 2016 pending on the file of the learned Judicial Magistrate, Tambaram and transfer the same to any of the Magistrate Court at Saidapet, Chennai.

2. Heard the learned counsel on both sides.

3. On 15.06.2016, this Court has passed the following order :

"3. For the sake of convenience, the petitioner and respondent will be referred to as accused and complainant respectively.

4. The complainant lodged a prosecution in C.C. No.740 of 2010 before the Judicial Magistrate Court, Tambaram against the accused for an offence under Section 138 of the Negotiable Instruments Act, 1881 (for brevity "the Act"). The accused filed Crl.O.P. No.10012 of 2012 for transferring C.C. No.740 of 2010 from the file of the Judicial Magistrate Court, Tambaram to any other Court in Saidapet. The complainant

entered appearance and represented that he has no objection in the matter being transferred to any other Court in Saidapet. In view of that, Crl.O.P. No.10012 of 2012 was disposed of on 28.09.2012, transferring the case in C.C. No.740 of 2010 from the file of the Judicial Magistrate Court, Tambaram to the file of the XVII Metropolitan Magistrate Court, Saidapet and the case was re-numbered as C.C. No.3849 of 2012. During the pendency of the case, Fast Track Courts were created for trial of cases pertaining to Section 138 of the Act. In view of that, the XVII Metropolitan Magistrate Court, Saidapet, transferred C.C. No.3849 of 2012 to the file of the Fast Track Court No.III, Saidapet.

5. In the considered opinion of this Court, the XVII Metropolitan Magistrate need not have transferred the case to the Fast Track Court since the transfer from the file of the Judicial Magistrate Court, Tambaram, was effected pursuant to the order dated 28.09.2012 passed by this Court in Crl.O.P. No.10012 of 2012.

6. Be that as it may, while the case was pending before the Fast Track Court No.III, Saidapet, the Supreme Court rendered a judgment in Dashrath Rupsingh Rathod vs. State of Maharashtra, [(2014) 9 SCC 97]. Following the said judgment, the Act was amended by which the Court where the bank of the complainant is located, would have the jurisdiction to try the case. Accordingly, the Fast Track Court No.III, Saidapet, transferred C.C. No. 3849 of 2012 to the file of the Judicial Magistrate Court, Tambaram, since the complainant's bank falls within the jurisdiction of the said Court. After the transfer, the case has been re-numbered as S.T.C. No.836 of 2016 and is now pending on the file of the Judicial Magistrate Court, Tambaram.

7. The accused has once again approached this Court by way of this Criminal Original Petition for re-transfer of the case. In the considered opinion of this Court, the transfer of the case to the file of the Judicial Magistrate Court, Tambaram, had

occasioned due to the amendment of the Act and therefore, the order passed by the Fast Track Court No.III, Saidapet, cannot be faulted with.

8. However, the learned counsel for the respondent/complainant would submit that he has no objection in having the matter re-transferred to any of the Courts in Saidapet, Chennai, but, with a direction that the trial should be completed in a time bound manner, as it is the grievance of the respondent/complainant that the accused, who is an advocate, has successfully managed to prolong the case from 2010 onwards.

9. Admittedly, in this case, both the parties are advocates. Since both the parties agree for having the case transferred to the IX Metropolitan Magistrate Court, Saidapet, for expeditious disposal, on the ground of forum convenience, the case in S.T.C. No.836 of 2016 is hereby transferred from the file of the Judicial Magistrate Court, Tambaram to the file of the IX Metropolitan Magistrate Court, Saidapet.

10. Accordingly, the Judicial Magistrate, Tambaram, is directed to send the entire records in S.T.C. No.836 of 2016 to the file of the IX Metropolitan Magistrate Court, Saidapet, within a period of one week from the date of receipt of a copy of this order.

11. On such transfer of the case, the petitioner/accused shall appear before the IX Metropolitan Magistrate Court, Saidapet and furnish a bond under Section 88 Cr.P.C. for Rs.10,000/- with two sureties, as laid down by the Supreme Court in Indian Bank Association and Others vs. Union of India and others, [2014-2-L.W. (Cr1.) 400].

12. The IX Metropolitan Magistrate, Saidapet, is directed to complete the trial of the case within a period of one month from the date of receipt of records from the Judicial Magistrate Court, Tambaram and send compliance report to this Court.

Since this Court is monitoring the case,
the matter stands adjourned to 02.08.2016 for
reporting compliance."

4. Today, when the matter was called, the learned counsel
for the petitioner and respondent submitted that the case in
STC.No.836 of 2016 was transferred from the file of the learned
Judicial Magistrate, Tambaram, to the file of the learned IX
Metropolitan Magistrate, Saidapet, Chennai and re-numbered as
C.C.No.2767 of 2016. They also submitted that examination of
evidence has been completed and the case is posted for argument
on 05.08.2016.

Recording the same, this Criminal Original Petition is
closed. Consequently, connected miscellaneous petitions are
closed.

ds

s/d-
Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate,
Tambaram.
2. The IX Metropolitan Magistrate,
Saidapet.

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