

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.06.2016

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.8894 of 2016
and
Cr1.M.P.No.4642 of 2016

Ashwini Anilkumar

... Petitioner

Vs.

State by
The Inspector of Police,
All Women Police Station,
Thudiyalur,
Coimbatore.
(Crime No.10 of 2014)

... Respondent

Petition filed under Section 407 of Criminal Procedure Code, seeking transfer of S.C.No.220 of 2014 pending on the file of Magalir Needhimandram (Mahila Court), Coimbatore to Chennai or other competent Sessions Judge/Magalir Needhimandram.

For Petitioner : Mr.M.Nirmal Kumar

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed by the petitioner herein seeking transfer of S.C.No.220 of 2014 pending on the file of Magalir Needhimandram (Mahila Court), Coimbatore to Chennai or other competent Sessions Judge/Magalir Needhimandram.

2. The petitioner is stated to be a rape victim. On her complaint, Police registered a case in Cr.No.10 of 2014 and after completing the investigation, filed a final report and the case now stands trial before the Court of Magalir Needhimandram (Mahila Court), Coimbatore in S.C.No.220 of 2014.

3. On 26.11.2015, the petitioner and her mother were examined in Chief as P.W.1 and P.W.2. The learned counsel appearing for the accused filed an application under Section

231(2) Cr.P.C. for deferring the cross examination of the witnesses and the same was allowed by the Trial Court. Thereafter, the petitioner has gone abroad and she is stated to be in Dubai. While so, it is stated that the Trial Court has issued a Non-Bailable Warrant for appearance of the petitioner for the purpose of cross examination by the defence counsel. But, whereas, it is the assertion of the learned counsel for the petitioner that the petitioner is ready and willing to appear before the Trial Court and give evidence in flesh-and-blood.

4. It is contended by the learned counsel for the petitioner that since the Trial Court has issued a Non-Bailable Warrant for the appearance of the petitioner without even issuing summons to appear before the Court, he apprehends that the petitioner may not get justice at the hands of the Presiding Officer.

5. This Court is unable to accept the submission of the learned counsel for the petitioner, because, the High Court has issued several circulars to the Courts below for completing the trial of old cases and also the cases relating to women expeditiously. That apart, the Honourable Supreme Court in the case of Vinoth Kumar vs. State of Punjab (2015 (1) MLJ (Cri) 288) has issued a direction to all the trial Courts that the witnesses should be cross examined on the very same day of their examination in chief.

6. Taking into consideration the pressure of work in the Trial Courts, the learned Presiding Officer would have chosen to issue a Warrant for securing the presence of the witness which cannot be seriously faulted with.

7. Recording the submission of the learned counsel for the petitioner that the petitioner and her mother are willing to come in person for giving evidence, the Warrant issued by the learned Magalir Needhimandram (Mahila Court), Coimbatore, in S.C.No.220 of 2014 is hereby recalled. A further direction is given to the petitioner to engage an Advocate to appear before the trial Court in S.C.No.220 of 2014 on 08.06.2016 and after ascertaining the convenience of the trial Court, give a date for posting the case. On the date so fixed by the trial Court, the petitioner and her mother should come to India and submit themselves for cross-examination. The accused shall not adopt any dilatory tactics and if the accused does not co-operate with the trial, it is open to the trial Judge to remand them under Section 309 Cr.P.C. as held up by the Supreme Court in the case of State of U.P. vs. Shambhu Nath Singh (JT 2001 (4) SC 319). The learned Judge shall also bear in mind Section 327 (2) Cr.P.C. as amended and provide sufficient protection to the witnesses to depose in Coimbatore.

8. With the above directions, this Criminal Original Petition is closed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
All Women Police Station,
Thudiyalur,
Coimbatore.

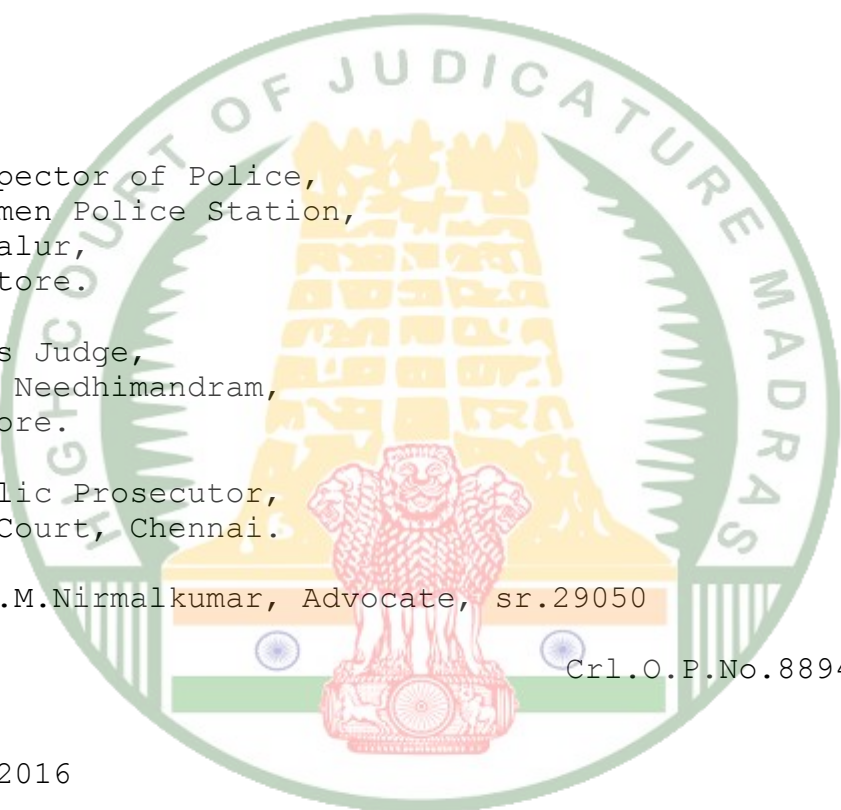
2. Sessions Judge,
Magalir Needhimandram,
Coimbatore.

3. The Public Prosecutor,
High Court, Chennai.

1 cc to Mr.M.Nirmalkumar, Advocate, sr.29050

Cr1.O.P.No.8894 of 2016

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The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital in front of it. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a green circle around the central image. Below the seal, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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