

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.06.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.OP.No.9242 OF 2016

1. G.V.Appala Naidu
2. R.Suresh Kennedy
3. D.S.Mani
4. G.Srinivasan
5. Pradeep Kumar
6. D.Prakash

... Petitioners

Vs

State rep by
The Inspector of Police,
Vaniambadi Town Police Station,
Vellore District.

... Respondent

Criminal Original Petition filed under Section 407 of Cr.P.C., praying to withdraw and transfer C.C.No.15 of 2015 on the file of the District Munsif-cum-Judicial Magistrate Court, Vaniambadi, Vellore District to any other Metropolitan Magistrate Court, Chennai.

For Petitioners : Mr.K.Mohanamurali

For Respondent : Mr.C.Emalias, APP

O R D E R

This petition has been filed to transfer C.C.No.15 of 2015 on the file of the learned District Munsif-cum-Judicial Magistrate Court, Vaniambadi, Vellore District to any other Metropolitan Magistrate Court, Chennai.

2. Heard the learned counsel for the petitioners; learned Additional Public Prosecutor for the respondent and perused the materials placed on record.

3. It is seen that the petitioners are accused in C.C.No.15 of 2015 pending before the learned District Munsif-cum-Judicial Magistrate Court, Vaniambadi for offences under Sections 420, 465, 471 and 120[b] r/w 109 IPC. The case of the petitioners is that G.V.Appala Naidu [A3] and D.Prakash [A8] are bank Managers who were living in Andhra Pradesh and therefore,

they find it very difficult to come to trial Court in Vaniyambadi for every hearing.

4. In the considered opinion of this Court, a case cannot be transferred from one court to another court for convenience of the accused. Hence, the request for transfer stands rejected and the petition stands dismissed.

5. However, the learned counsel for the petitioners submitted that presence of G.V.Appala Naidu [A3] and D.Prakash [A8] before the trial Court may be dispensed with.

6. All the petitioners are directed to appear before the trial Court and furnish a bond under Section 88 Cr.P.C. for Rs.10,000/- with two sureties. As regards G.V.Appala Naidu [A3] and D.Prakash [A8], their presence before the trial Court is dispensed with, on condition that they shall file an affidavit before the trial Court that they will not dispute their identity and that their counsel will cross-examine the witnesses when they examined in-chief, as held by the Hon'ble Supreme Court in Vinodh Kumar Vs State of Punjab reported in 2015[1] MCJ [Cr1] 288. G.V.Appala Naidu [A3] and D.Prakash [A8] shall present before the trial Court for receiving copies under Section 207 Cr.P.C., for answering charges, for questioning under Section 313 Cr.P.C. and on the date of judgment. On other hearings, if they filed an application for dispense with, the same shall be permitted by the trial Court. If the petitioners adopted any dilatory tactics, it is open to the trial Judge to require the presence of the petitioners-G.V.Appala Naidu [A3] and D.Prakash [A8] and take steps to remand them to custody under Section 309 Cr.P.C. as held by the Hon'ble Supreme Court in State of Uttarpradesh Vs Shambu Nath Singh reported in JT 2001[4] SC 319.

-s/d-

Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

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To

1.The Inspector of Police,
Vaniambadi Town Police Station,
Vellore District.

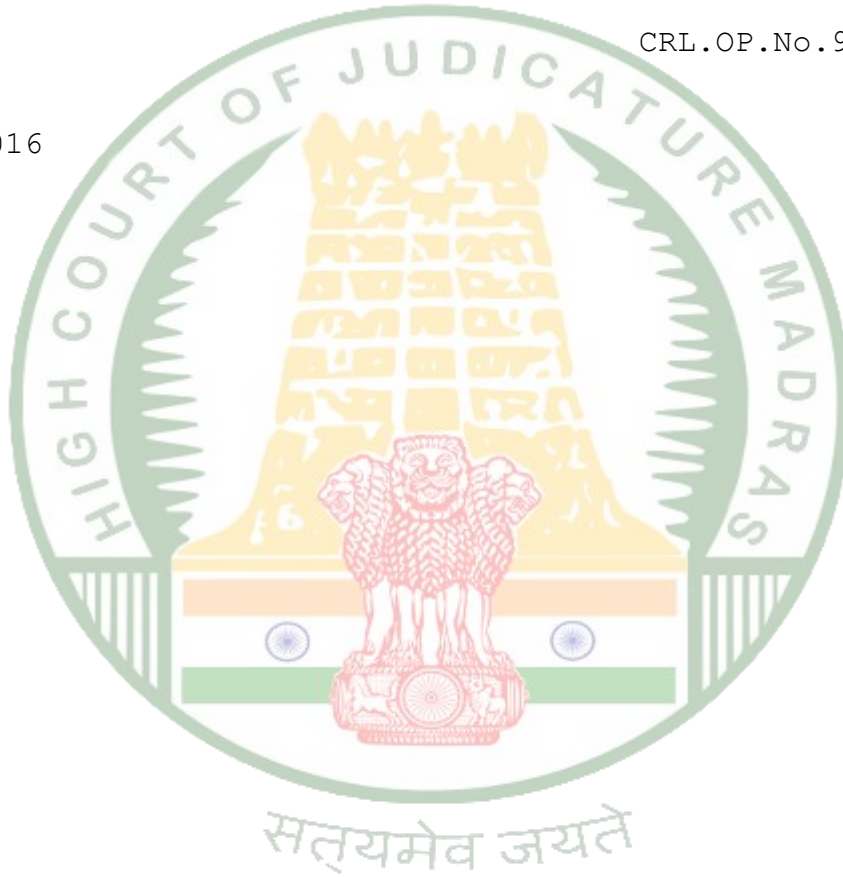
2.The Public Prosecutor,
High Court, Madras.

3) The District Munsif-cum-Judicial Magistrate Court,
Vaniambadi
Vellore District

+1 cc to M/s.K.Mohanamurali Advocate sr.29167/16

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