

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

CrI.O.P. No.9422 of 2016

1 L.S.E. Palaniappan
2 Udhayam Murugaiyan
3 Kannan
4 Iyappan
5 Panneerselvam
6 K. Asaithambi

Petitioners

1 Kannan

2 The State
represented by
the Inspector of Police
CB CID Thiruvarur
Thiruvarur District
Crime No.105/2010
Vaimeedu Police Station

vs.

Respondents

Criminal Original Petition filed under Section 482, Cr.P.C. to transfer the criminal case in S.C. No.120/2014 on the file of the Chief Judicial Magistrate Court, Cuddalore and to transfer the trial either to the Nagapattinam or Thiruvarur.

For petitioners Mr. K.M. Subrahmanian

For R2 Mr. C. Emalias
Addl. Public Prosecutor

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ORDER

This Criminal Original Petition is filed seeking to transfer the criminal case in S.C. No.120/2014 on the file of the Chief Judicial Magistrate Court, Cuddalore and to transfer the trial either to the Nagapattinam or Thiruvarur.

2 Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

3 It is seen that the petitioners/accused are facing trial in S.C. No.120 of 2014 on the file of the Chief Judicial Magistrate Court, Cuddalore in Crime No.105 of 2010 on the file of the Inspector of Police, CB CID, Thiruvavur, for offences under Section 147, 148, 341, 324, 307, 307 read with Section 109 IPC and Section 31(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, in respect of an alleged incident that took place as early as on 09.09.2010. The police completed the investigation and filed a Final Report before the jurisdictional Magistrate and the case was committed in S.C. No.138 of 2013 to the file of the Sessions Court, Nagapattinam, who made over the case to the file of the Assistant Sessions Court, Nagapattinam. When the matter was pending before the Assistant Sessions Court, Nagapattinam, the de facto complainant filed Crl.O.P. No.3596 of 2014 for transfer of the case from the file of the Assistant Sessions Court, Nagapattinam to any other Court outside Nagapattinam District. This Court, by order dated 27.02.2014, in Crl.O.P. No.3596 of 2014, transferred S.C. No.138 of 2013 from the file of the Assistant Sessions Court, Nagapattinam to the file of the Chief Judicial Magistrate, Cuddalore and the case has been re-numbered as S.C. No.120 of 2014. This petition has been filed by the petitioners/accused for re-transferring the case or for modification of the earlier order dated 27.02.2014 passed in Crl.O.P. No.3596 of 2014.

4 Under Section 362, Crl.P.C. this Court cannot either review or alter the order passed by this Court earlier. Hence, the petitioners' prayer cannot be granted considered. However, the Chief Judicial Magistrate, Cuddalore, is directed to proceed with the trial in S.C. No.120 of 2014 and complete the same within a period of six months from the date of receipt of a copy of this order. The petitioners/accused shall cooperate with the Court in disposal of the case. If the petitioners/accused adopt any dilatory tactics, it is open to the Trial Court to remand them to custody under Section 309, Crl.P.C. as held by the Supreme Court in State of Uttar Pradesh vs. Shambu Nath Singh [JT 2001 (4) SC 319]. It is made clear that if the petitioners/accused shall cross examine the witnesses on the date their examination-in-chief is made, as directed by the Supreme Court in Vinoth Kumar vs. State of Punjab, [2015 (1) MLJ (Crl.) 288].

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

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

cad

To

1 The Inspector of Police
CB CID Thiruvarur
Thiruvarur District
Crime No.105/2010
Vaivedu Police Station

2 The Public Prosecutor
High Court of Madras
Chennai 600 104

3. The Chief Judicial Magistrate Cuddalore.

Copy to: The Assistant Sessions Court, Nagapattinam.

+ 1 cc to Mr.K.M. Subrahmanian, Advocate Sr.32027

Cr1.O.P. No.9422 of 2016

LRS (CO)
EU 29.6.16

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