

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2017

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.6757 of 2017

and

Crl.M.P.Nos.4945 & 4946 of 2017

1) Vembuli Vendhan

2) Annapottu

3) Vinvizhi

4) Chellapackiam

5) Poovizhi Vendan

6) Chellamuthu .. Petitioners
Vs.

1) State Represented by its
Inspector of Police
Veeraganoor Police Station
Cr.No.329 of 2011

2) Thangaraj .. Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to withdraw C.C.No.6 of 2016 pending on the file of the learned Judicial Magistrate No.1, Attur and transfer the same to the file of the learned Assistant Sessions Judge, Attur to be tried along with SC No.123 of 2015.

For Petitioner :Mr.M.Devaraj

For R1 :Mr.P.Govindarajan

Additional Public Prosecutor (Crl.Side)

For R2 :Mr.S.Gopi

ORDER

The petitioners have come forward with this Criminal Original Petition seeking to withdraw C.C.No.6 of 2016 pending on the file of the learned Judicial Magistrate No.1, Attur and transfer the same to the file of the learned Assistant Sessions Judge, Attur to be tried along with SC No.123 of 2015.

2. This petition is filed by the persons accused in S.C.No.123 of 2015 pending on the file of Assistant Sessions Judge, Attur. It is contended by the learned counsel for the petitioners that the counter case investigated by the police based on the complaint given by these petitioners have been taken on file by the learned Judicial Magistrate and pending on the file of Judicial Magistrate, Attur in CC.No.6 of 2016. Though both the cases arise out of the same incidents; case and counter case are pending before two different Courts. While the petitioners are facing trial in S.C.No.123 of 2015, the second respondent in this petition is arrayed as accused in CC.No.6 of 2016 and facing trial before the Judicial Magistrate, Attur. The petition filed by these petitioners in the trial Court for transfer was dismissed at the first time for non-prosecution and the second time on the ground of maintainability. The law on this point is well settled and that when a case and counter case arise out of the same incident, then both the cases have to be tried together in order to ensure uniformity and to avoid multiplicity of proceedings.

3. In the light of the above, it is essential to allow the petition so that there may be procedural uniformity. Accordingly, this Criminal Original Petition is allowed. Learned Judicial Magistrate, Attur on whose file CC.No.6 of 2016 pending, is hereby directed to transfer the matter to the Learned Assistant Sessions Judge, Attur to be tried simultaneously with S.C.No.123 of 2015. The learned Assistant Sessions Judge, Attur is directed to dispose of the matter within a period of four months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VII)

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Sub Assistant Registrar

sts

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To

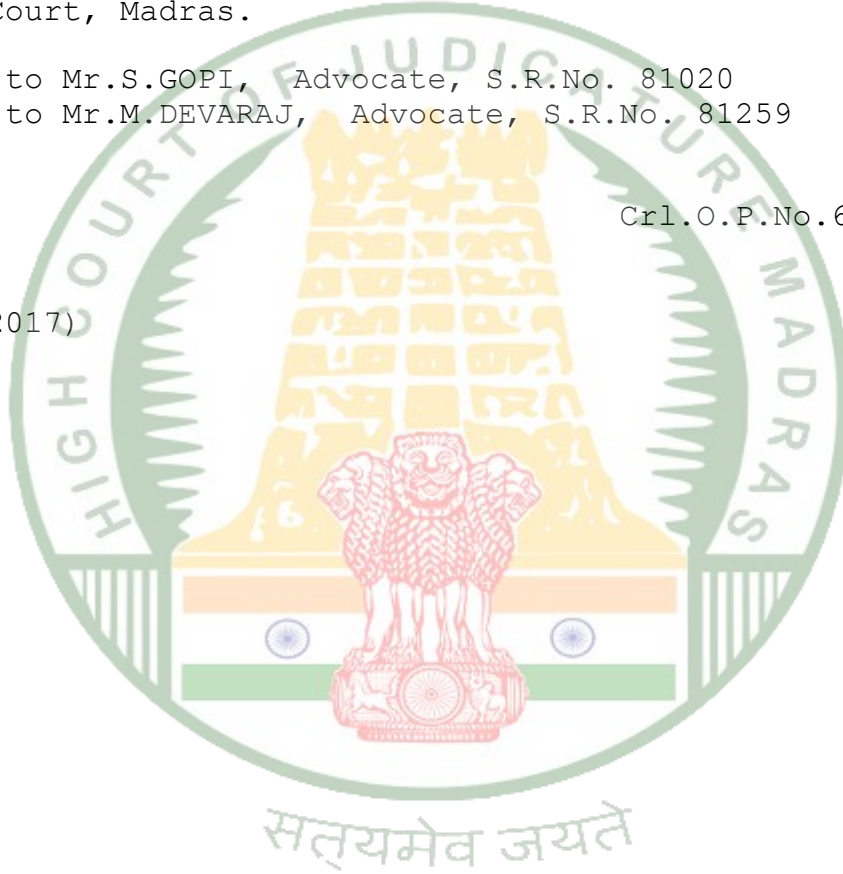
1. The Judicial Magistrate, Attur.
2. The Assistant Sessions Judge, Attur.
3. The Inspector of Police,
Veeraganoor Police Station,
Veeraganoor.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.GOPI, Advocate, S.R.No. 81020

+1cc to Mr.M.DEVARAJ, Advocate, S.R.No. 81259

Order in
Crl.O.P.No.6757 of 2017

NK(CO)
TR(18/12/2017)



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