

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

CRL.O.P.No.9710 of 2010
and
M.P.No.1 of 2010

A.Sukumaran
Proprietor, S.T.E Earth Movers
S/o Adimoolam,
HIG-224, Brindavan Nagar,
Opp. to Water Tank, Bagalur HUDCO,
Hosur, Krishnagiri District. .. Petitioner

Vs

Rajendran .. Respondent

PRAYER: Petition filed under Section 407 of the Code of Criminal Procedure, to withdraw the S.T.C.No.148 of 2010 on the file of the Judicial Magistrate No.I, Dharmapuri and transfer the same to Judicial Magistrate No.II, Hosur to try along with S.T.C.Nos.1939 of 2009, 1940 of 2009 & 1941 of 2009.

For Petitioner : Mr.S.Lakshmanasamy

For Respondent : No Appearance

ORDER

This criminal original petition is preferred by the petitioner/accused to withdraw the S.T.C.No.148 of 2010 from the file of the learned Judicial Magistrate No.1, Dharmapuri and transfer the same to learned Judicial Magistrate No.II, Hosur and to try along with S.T.C.Nos.1939 to 1941 of 2009.

2.Brief case of the petitioner/accused is that:

The facts of the case is that the petitioner/accused borrowed loan from the respondent herein and others and subsequently repaid the entire amount with interest but the financiers demanded more money and already the petitioner have paid more amount as interest and the interest will come more than principal amount and while being so, one day the respondent herein and other three financiers came to petitioners house and his wife was informed that if the petitioner have not paid more money as they claimed, they will not return the cheques and blank papers obtained. Immediately the petitioner's wife gave a complaint before the Inspector of police Hosur Town police station and based on that complaint FIR was registered in Cr.No.1324 of 2009 and now final report has been filed against the respondent herein and three others financiers for the alleged offences under Section 4 of Tamil Nadu Prohibition Charging and Exorbitant Interest Act 2003 and Section 506(ii) of IPC.

3.The respondent and three other financiers had presented petitioner's cheques and got returned from petitioner/accused bank and subsequently they obtained anticipatory bail. The respondents filed separate complaints under Section 138 of the Negotiable Instrument Act before the learned Judicial Magistrate No.II Hosur against the petitioner/accused and the same is pending in STC Nos.1939 to 1941 of 2009 and subsequently final report has been filed before the learned Judicial Magistrate, No.II Hosur. The respondent wantonly filed a private complaint against the petitioner/accused before the learned Judicial Magistrate, No.I, Dharmapuri in STC No.148 of 2010.

4.The defence in all the cases will be one and the same and also the Court of Judicial Magistrate No.II also have jurisdiction and if all the four complaints will tried as joint trial, the truth will come out and the police case has to be taken as joint trial with the cheque cases. Therefore the petitioner filed this transfer petition to transfer the STC.No.148 of 2010 to learned Judicial Magistrate No.II, Hosur from the file of the learned Judicial Magistrate. No.I, Dharmapuri for joint trial.

5.I heard Mr.S.Lakshmanasamy, learned counsel for the petitioner and perused the entire materials available on record. No representation on behalf of the respondent.

6. Admittedly, a criminal case was instituted by the petitioner/accused and FIR was registered against the respondent/complainant in Cr.No.1324 of 2009 and the Inspector of Police, Hosur Town Police Station on investigation, filed the final report which is pending. The respondent/complainant also filed the private complaint against the petitioner/accused before the learned Judicial Magistrate, No.I, Dharmapuri in S.T.C.No.148 of 2010 which is also pending. Further the cheque cases were filed by the respondent/complainant before the learned Judicial Magistrate No.II, Hosur and the same is pending in S.T.C.Nos. 1939 to 1941 of 2009.

7. It is seen from the records that, the entire issue between both parties started regarding the money transactions. Further if the case is not tried jointly, as contended by the petitioner/accused, it would be a travesty of justice. Therefore, I am inclined to transfer the case pending in S.T.C.No.148 of 2010 on the file of the learned Judicial Magistrate No.I, Dharmapuri to the other cases pending on the file of the learned Judicial Magistrate No.II, Hosur.

8. In the result, this Criminal Original Petition is allowed. The Transfer Petition in S.T.C.No.148 of 2010 pending before the learned Judicial Magistrate No.I, Dharmapuri shall be transferred to the learned Judicial Magistrate No.II, Hosur and the learned Judicial Magistrate No.II, Hosur is hereby directed to conduct joint trial along with S.T.C.Nos.1939 to 1941 of 2009. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS viii)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Judicial Magistrate No.I, Dharmapuri.
2. The Judicial Magistrate No.II, Hosur.

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A.SK(07/03/2019)