

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Crl.O.P No.20973 of 2010

and

M.P.No.1 of 2010

R.Kasthuri ... Petitioner

vs

1.The State by Inspector of Police,
J-8, Neelankarai Police Station,
Chennai - 41.
Crime No.615 of 2005.

2.Rajkiran @ Kalaiselvan ... Respondents

Prayer: Criminal Original Petition filed under Section 407 of Criminal Procedure Code, to withdraw the case in SC.No.177 of 2007 on the file of the Principal Sessions Court at Chengalpattu and transfer the same to any other Court having Jurisdiction at Namakkal or Salem District by allowing the transfer petition.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents: Mr.B.Ramesh Babu (for R1)
Government Advocate (Crl.Side)
Mr.S.Ruban (for R2)

JUDGMENT

It is the case of the petitioner that her husband namely Rajendran was murdered by the 2nd Respondent herein on 12.05.2005, for which the petitioner lodged a complaint and the same was registered in Crime.No.615 of 2005 on the file of the 1st Respondent Police under Section 302 IPC.

2.After Investigation charge sheet came to be filed before the Alanthur Judicial Magistrate Court and upon committal the case was made over to the Principal Sessions Court, Chengalpattu and was taken on file in S.C.No.177 of 2010. The Petitioner arrayed as P.W.3 in the list of witness and for adducing evidence she went to the Principal Sessions Court, Chengalpattu on 20.04.2010. At that time, despite presence of the police, 2nd Respondent herein who is the accused in the above crime intimidated the Petitioner not to

disclose the factum of his involvement in the above offence. Neither the Police nor the Prosecution had come forward to rescue the petitioner. The Petitioner also noticed a team of unknown persons set up by the accused waiting in the Court complex with knife. Hence the petitioner lodged a complaint to the Higher Officials of the 1st Respondent police and to the Hon'ble Chief Minister's Special Cell on 27.08.2010 and the said complaint was pending with the 1st Respondent police for enquiry. In the meantime the petitioner's brother namely Vijayakumar who was arrayed as PW-4 also faced a similar threat from the accused. Therefore the Petitioner has come forward with the above transfer petition seeking to transfer S.C.No.177 of 2007 on the file of the Principal Sessions Court at Chengalpattu to any other Court at Nammakkal or Salem District.

3.I heard Mr.R.Marudhachalamurthy, learned counsel for the petitioner, Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side) for the 1st respondent and Mr.S.Ruban, learned counsel for the 2nd respondent and perused the records.

4.Earlier when the above transfer petition came up for hearing, a direction was issued to the 1st Respondent police by this Court to file a status Report in respect of the petitioner's complaint over the alleged threat. The 1st Respondent police accordingly filed the Status Report on 16.03.2017 and the relevant portion of the same is exacted hereunder:

"1. I submit that on 27.08.2010 the Petitioner namely Tmt.Kasthuri, W/O. Late. Rajendran, [P.W.3 in S.C.No.177 of 2010 pending on the file of the Principal Sessions Court, Chengalpattu in J8 Neelgangari P.S. Crime No.615 of 2005, under Section 302 IPC] sent a Petition through post to the Superintendent of police with the request to safeguard her from the second Respondent/accused namely Rajkiran@Kalaiselvi. The said Petition was received by the Superintendent of police, Kancheepuram District on 06.09.2010 and the same was forwarded to the Assistant Superintendent of police, Chengalpattu sub Division for necessary action vide C.No.K2/861/135445/2010 dated 06.09.2010.

2.I submit that the Assistant Superintendent of police, Chengalpattu sub Division forwarded the above said Petition vide C.No.232/K2/SDO/CH/10 to Tr.V.N.Palani, the Inspector of police, D1 Chengalpattu Town P.S., sent summons to the Petitioner address given in the Petition through post, but it was returned with an endorsement that "insufficient address". Hence, the then Inspector of police D-1 Chengalpattu Town P.S., closed the Petition as no further action is necessary on 11/03/2011 and submitted the closure report to the

Superintendent of police, Kancheepuram District on the same day.

3.I submit that the Petition of the Petitioner was disposed in keen disposal [i.e. Three years validity for disposal] the file was destroyed as per the Memorandum of the Superintendent of police, Kancheepuram District in C.No.DPO/Record/KPM/2017 dated 07.01.2017".

5.On perusal of the above Report it reveals that the Petitioner has not co-operated for enquiry over her complaint lodged as against the 2nd Respondent/accused. In pursuant to the non co-operation of the petitioner, the Respondent police had closed the complaint.

6.This being the fact, this Court is not inclined to entertain the petitioner's prayer sought to transfer the above Sessions case. However, taking account of the allegations leveled by the petitioner, there shall be a direction to the 1st Respondent police to provide adequate police protection in future hearings to the Petitioner and his brother Vijayakumar in the event of adducing their evidence before the Trial Court, if warranted.

7.Moreover, the trial Court is directed to dispose the above case in S.C.No.177 of 2010 within a period of 8 weeks which would meet the ends of justice.

8.In the result, this Criminal Original Petition is disposed with the following direction:

(a) the learned Principal Sessions Judge, Chengalpattu is directed to dispose of the S.C.No.177 of 2007 within a period of eight weeks from the date of receipt of a copy of this order; and

b) the 1st Respondent is directed to provide necessary Police protection to the petitioner and as well as to his brother Vijayakumar in future hearings in the event of adducing their evidence before the trial Court, if warranted. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

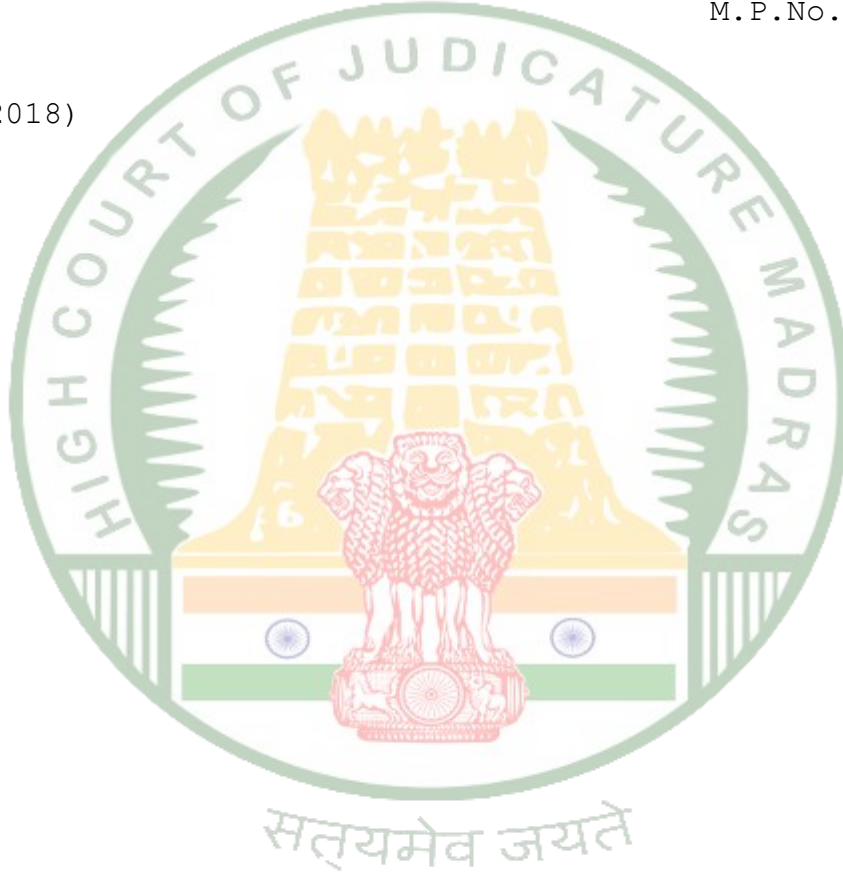
To

The Principal Sessions Court,
Chengalpatt.

+ 1 cc to Mr. R. Marudhachalamurthy, Advocate Sr.16687

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(Cs-IX)
EU(19/03/2018)



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