

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.1671 of 2016
and CrI.M.P.No.13810 of 2016

K.Raviramakrishnan ... Petitioner/Accused

Vs.

P.Velusamy ... Respondent/Complainant

PRAYER: Criminal Revision filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed by the learned Principle District and Sessions Judge, Chennai in CrI.M.P.S.R.No.21765 of 2016 on 14.12.2016 .

For Appellant : Mr.C.S.Dhanasekaran

For Respondent : Mr.K.Ragupathy

ORDER

The present revision has been filed against the order rejecting the petitioner's application filed under Section 408 Cr.P.C., as not maintainable.

2.The revision petitioner is an accused in a private complaint filed under Section 138 of Negotiable Instruments Act in C.C.No.4630 of 2009, pending on the file of the learned Metropolitan Magistrate, Fast Track Court-II, Allikulam, Chennai. Earlier, the petitioner filed an application under Section 408 Cr.P.C to transfer the above Criminal case to some other competent criminal court making allegations against the presiding officer and the application has been returned as not maintainable on the ground that the petitioner cannot maintain application under Section 408 Cr.P.C. and only he can file a petition for transfer under Section 410 Cr.P.C. before the learned Chief Metropolitan Magistrate, Chennai. Aggrieved by the same, the present revision has been filed.

3. Heard Mr.C.S.Dhanasekaran, learned counsel appearing on behalf of the petitioner and Mr.K.Ragupathy, learned counsel on behalf of the respondent.

4. Section 408 Cr.P.C. Reads as follows:

Power of Sessions Judge to transfer cases and appeals.

(1) Whenever it is made to appear to a Sessions Judge that an order under this sub-section is expedient for the ends of justice, he may order that any particular case be transferred from one Criminal Court to another Criminal Court in his sessions division.

(2) The Sessions Judge may act either on the report of the lower Court, or on the application of a party interested or on his own initiative.

(3) The provisions of sub-sections (3), (4), (5), (6), (7) and (9) of section 407 shall apply in relation to an application to the Sessions Judge for an order under sub-section (1) as they apply in relation to an application to the High Court for an order under sub-section (1) of section 407, except that sub-section (7) of that section shall so apply as if for the words "one thousand" rupees occurring therein, the words "two hundred and fifty rupees" were substituted."

5. Under Section 408 Cr.P.C., the Sessions Judge has the power to transfer any criminal case from one criminal court to another criminal court in his sessions division. In the above circumstances, the petitioner need not be directed to file the petition before the Chief Judicial Magistrate Court under Section 410 Cr.P.C.

6. In the above circumstances, the present order passed by the court below rejecting the petition as not maintainable is set aside and the court below is directed to number the transfer application and dispose of the same on merits and in accordance with law.

7. Accordingly, the Criminal Revision is allowed.
Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Chennai.
2. The Metropolitan Magistrate,
Fast Track Court-II,
Allikulam, Chennai.

+1cc to Mr.C.S.Dhanasekaran, Advocate Sr.20698

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