

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.30966 of 2012&
M.P.Nos.1 and 2 of 2012

1. M.D.Thangavel
2. K.Tamilselvi

.. Petitioners

Vs.

S.Palanisamy

.. Respondent

PRAYER: Criminal Original Petition filed under Section 407 Cr.P.C. to transfer case in STC.No.120/2012 on the file of Judicial Magistrate FTC II, Coimbatore to Judicial Magistrate, Gobichettipalayam or Judicial Magistrate, Bhavani, Erode District.

For Petitioners : No appearance

For Respondent : M/s.C.Deivasigamani

ORDER

Counsel for the petitioners is absent. Counsel for the respondent is present.

2. It is seen from the records that the counsel for the petitioners was absent on 05.07.2017, again on 29.08.2017 and the matter was directed to be posted under the caption “for dismissal” today. Even today, the counsel for the petitioners is absent.

3. The petition has been filed seeking transfer of the case in STC.No.120/2012 from the file of Judicial Magistrate FTC II, Coimbatore to the file of Judicial Magistrate, Gobichettipalayam or Judicial Magistrate, Bhavani, Erode District.

4. The averments raised in the affidavit filed by the second petitioner in the transfer petition are that she is the second accused in a private complaint filed by the respondent for offences under Section 138 of the Negotiable Instruments Act and that on 04.05.2012, she had filed a petition before the Hon'ble Judicial Magistrate, FTC No.II, Coimbatore, under Section 45 of Indian Evidence Act to compare the signature of the first petitioner,

who is her husband, with the disputed cheque along with the signature of the first petitioner in other documents.

5. It is further submitted that the learned Magistrate had entertained the petition, but thereafter, when the petitioner produced relevant documents before the Court, to be taken up at the time of defence side evidence in the petition filed by the respondent under Section 45 of the Indian Evidence Act, the learned Magistrate refused to take the same and thus, the petitioner had stated that the concerned Magistrate is acting partially in favour of the complaint. It is also further averred in the petition that the learned Magistrate had threatened the petitioner that he will pronounce the judgment on the next date of hearing, if there is no defence evidence on their side.

6. It is stated by the learned counsel for the respondent that the transfer petition had been filed at the fag end of the trial, only for the purpose of protracting the trial and to defeat the interest of the complainant and that due pendency of the petition for transfer and the order passed by this Hon'ble Court, dispensing with the appearance of the petitioners before the trial court, the trial had not proceeded further, before

the trial court.

7. Further it is also submitted by the learned counsel for the respondent that the matter is pending from the year 2012 and the learned Magistrate against whom allegations have been made would have also been transferred by now and the allegations raised in the petition would not sustain at this stage, hence pleaded for dismissal of the transfer application.

8. Taking into consideration the absence of the counsel for the petitioners and also that though the petition is posted for dismissal, the petitioner is also not present, this Court feels that no purpose will be served in keeping this petition pending. Hence, this petition is dismissed. The learned Judicial Magistrate FTC No. II Coimbatore is directed to complete the trial as expeditiously as possible. Connected miscellaneous petitions are also closed.

04.09.2017

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Speaking Order/Non-speaking Order
Index:Yes/No
Internet:Yes/No

A.D.JAGADISH CHANDIRA,J.,

sli

To

The Judicial Magistrate,
FTC II,
Coimbatore.



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