

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**Crl.O.P No.5067 of 2011
and
M.P.No.1 of 2011**

Ma.Ku.Baskaran @ Pagalavan

... Petitioner

vs.

State rep. By:

1.The Inspector of Police,
Arani Town Police Station,
Thiruvannamalai District.

2.K.B.Ambedkar
Special Public Prosecutor
for SC/ST cases,
Thiruvannamalai.

3.Chinnapaiyan @ Vengatesan

4.V.Suri

5.Archunan

6.Periyasamy

7.Manjakannan @ Elumalai

8.Puthuran @ Murugesan

(Impleaded the 3 to 8 respondents as per the
order of this Court dated 08.02.2017
in Crl.M.P.No.1787 of 2017)

... Respondents

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Prayer: Criminal Original Petition filed under Section 407 of Cr.P.C., to transfer the case in S.C.No.72 of 2009 on the file of the Special Judge for SC/ST cases, Thiruvannamalai to Special Court for SC/ST cases, Vellore or any other competent Court.

For Petitioner : Mr.S.Rajanikanth

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

No Appearance (for R2)

JUDGMENT

That the petitioner has come up with the present petition for the transfer of the Sessions Case in S.C.No.72 of 2011, on the file of the Special Court, Thiruvannamalai (District Sessions Court, Thiruvannamalai), to any other Competent Court to Vellore District.

2.It is the case of the Petitioner that he belongs to Adi Dravidar Community and District Secretary of Ilanchiruthaigal Ezhuchi Pasarai. Further on 28.08.2005, when the Petitioner returned from Thatchur village along with the party member in a Tata Sumo car, his vehicle was intercepted by the Panchayat President of Vadugasathur with henchmen near Vadugasadhur Bus stop and attacked the Petitioner and his party

man. At the same time the accused shouted by abusing words about the caste of the Petitioner and damaged his vehicle. Subsequently, the petitioner lodged a complaint before the 1st Respondent, accordingly, the case was registered in Crime No.619 of 2005 under Sections 147, 148, 341, 323, 324 and 307 of IPC r/w 3(i)(x) of SC/ST Act.

3. Thereafter, charge sheet was filed by the 1st respondent and the same was taken on file as S.C.No.72 of 2011, on the file of the Special Court, Thiruvannamalai (District Sessions Court, Thiruvannamalai) and the same is pending trial.

4. It is the further case of the Petitioner that when the Petitioner was in Vellore Central Prison in a case in Crime No.2 of 2011 on the file of the Arani Police Station and he had taken treatment in Jail Hospital as Prisoner, he was forcefully handcuffed and produced before the learned Special Judge for SC/ST case, Tiruvannamalai. But the Petitioner submitted a written explanation to the concerned judge by explaining about his health condition and his inability to participate for Chief Examination and the case was adjourned to 09.02.2011. Apart from that the Hooligans and the caste fanatics have threatened the Petitioner and witnesses on the instigation of A-1 namely Chinnapaiyan @ Venkatesan.

5. Further the Special Public Prosecutor was also colluded with the accused persons by getting bribe from A1 and trying to set-free the accused from the clutches of law. Further, the petitioner was used to be threatened and the accused persons have planned to attack the petitioner when the petitioner attends the Court, hence he could not appear before the concerned Special Court on 09.02.2011.

6. At the same time the petitioner has sent representation on 07.02.2011 to the District Judge and the Hon'ble the Chief Justice of this Court, no action has been taken. So, he prays by pointing out the circumstances that the said criminal case is to be transferred to any other competent Court in Vellore District from the file of the Special Judge for SC/ST case, Thiruvannamalai.

7. Per contra to the contention of the counsel for the petitioner, the Government Advocate (Criminal side) contented that the Petitioner has raised allegations against the erstwhile Special Public Prosecutor namely Ambedkar and the 1st accused were planned through some political party and hand in glove with each other, the Special Public Prosecutor acted to save the accused person but presently the said Public Prosecutor namely

Ambedkar is not proceeding the case as Special Public Prosecutor. Hence, the allegation in respect of the Special Public Prosecutor colluded with the accused would not sustainable. Further contention of the Government Advocate Criminal side is that though the Petitioner has raised that the Petitioner and prosecution witness were threatened by the accused, no one has lodged any complaint about the threatening the same. So, the reasons adduced by the petitioner to transfer the case are unsustainable and untenable. So he prays for the dismissal of the petition.

8. After hearing both side arguments, after perused the records, this Court finds that the Petitioner has already sent representation to the concerned Principal District Judge and the Hon'ble the Chief Justice of this Court in respect of the threat to his life. It is the duty of the Court also to see and to ascertain the fair and an impartial trial with life security of all the parties concerned, then only all the parties concerned can defend their case as per law. So, the transfer of the case in S.C.No.72 of 2009 from the file of the Special Judge for SC/ST cases, Tiruvannamalai to any other competent Court of Vellore District is very essential to secure the ends of justice.

9. In view of the above said discussion, the Criminal Original Petition

Judge for SC/ST cases Thiruvannamalai is transferred to the file of the Special Court for SC/ST cases Vellore. In view of the pendency of the case from the year 2009, the Presiding Officer of the Special Court for SC/ST cases, Vellore is directed to complete the trial proceedings within a period of six months from the date of receipt of a copy of this order. With the observation, this Criminal Original Petition is ordered accordingly. Consequently, connected miscellaneous petition is closed.

21.04.2017

Note: Issue order copy on 30.08.2017

Internet : Yes

Index : Yes

vs

To

The Special Judge for SC/ST cases,
Thiruvannamalai.



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M.V.MURALIDARAN,J.

VS



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