

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**Crl.O.P No.5625 of 2011
and
M.P.No.1 of 2011**

Vanaja Munian

... Petitioner

VS.

1.A.G.S.Ravi @ Rajagopal

2.G.Vanaraj
SC/ST Public Prosecutor,
District Court Campus,
Cuddalore – 607 001.

3.The State represented by
The Public Prosecutor,
High Court, Madras.

... Respondents

Prayer: Criminal Original Petitions filed under Section 407 of Cr.P.C., that withdraw the S.C.No.391 of 2008 on the file of the District Sessions Court, Cuddalore be transferred to the District Sessions Court, Villupuram.

For Petitioner

: Mr.D.Sadhasivan

For Respondents

: Mr.C.Prasanna Venkatesh (for R1)

Mr.A.Arasuganesan (for R2)

Mr.B.Ramesh Babu (for R3)
Government Advocate (Crl. Side)

JUDGMENT

The petitioner is the Defacto complainant in Sessions Case No.311 of 2008, on the file of the District and Sessions Court, Cuddalore and to transfer the same to District Sessions Court, Villupuram or any other Court.

2.It is the specific case of the petitioner that on 16.05.2007 followed by previous enmity, the 1st respondent under the influence of alcohol abused and scolded the petitioner by using vulgar words in relation to the community of the petitioner. So, on the same day itself the petitioner lodged a complaint to the Sub-Inspector of Police, Bhuvanagiri Police station. As there was no legal action initiated by the police, on 17.05.2007 he sent a complaint through telegram to the concerned Superintendent of Police. Thereafter 21.05.2007 the petitioner sent representations to the Assistant Superintendent of Police, Chidambaram and also sent complaint to the District Collector and other police officials. Even again on 19.07.2007, the petitioner sent representation to the Superintendent of Police, Cuddalore and the District Collector and other responsible officials.

3.As the complaint of the petitioner was not duly dealt with by the concerned authorities, he filed a private complaint under Section 200 of Code of Criminal Procedure, before the learned Judicial Magistrate, Parangipettai in C.M.P.No.28 of 2008. The concerned Judicial Magistrate took the complaint of the petitioner on file by recording the evidence of the witnesses who were present and the same was transferred to the file of the learned Sessions Judge, Cuddalore.

4.According to the petitioner, the said case was numbered as S.C.No.399 of 2008. Further, accordingly as per the direction of learned Judicial Magistrate Parangipettai, the petitioner appeared before the District Principal and Sessions Court, Cuddalore. The further case of the petitioner is that the then Public Prosecutor appeared on his behalf in the Sessions Court, Cuddalore and the matter was periodically adjourned. However, on 05.01.2010 and 05.02.2010 the petitioner filed an affidavit before the concerned Court to mark the list of documents, but the said applications were objected by the Respondents inter alia. Thereafter 06.09.2010 the petitioner filed another application to return back the copies filed before the Court concerned in order to present the same in a Civil Case in O.S.No.10 of 2013 on the file of the learned District Munsif, Chidambaram, but the said application was returned.

5. In the meanwhile, the trial was commenced in the Sessions Case on 24.11.2010 and the petitioner was examined as PW-1. However, when the deposition was gone through, the petitioner found 3 mistakes in the same when it was recorded. So, the petitioner requested the Public Prosecutor to take steps to carry out the corrections. However after repeated requests with the said Prosecutor, the petitioner was allowed to carry out 2 corrections only and one important correction was not permitted to carry out. As such while recording the evidence of the petitioner, the said Prosecutor refused to mark 6 important documents. So the petitioner has apprehended the attitude of the concerned Public Prosecutor and ascertained that the Prosecutor colluded with the 1st Respondent, which compelled the petitioner to file a petition before the concerned Court by making allegations against the said Public Prosecutor. Even thereafter 01.12.2010 the petitioner sent a letter to the District Collector, Cuddalore and made allegations against the Public Prosecutor. At the same time, as the representations and letters of the petitioner has not been dealt with as per law, he is constrained to come up with present petition to transfer the case in S.C.No.391 of 2008 on the file of the District and Sessions Court, Cuddalore to the file of the Sessions Court, Villupuram or any other Court.

6. Per contra, the learned Government Advocate Criminal side would

submit that the allegations leveled by the petitioner as against the then Public prosecutor are not true and the trial of the said sessions case was conducted in a fair and impartial manner and all the opportunities were afforded to the petitioner, so the instant application for transfer is unnecessary.

7.I heard Mr.D.Sadhasivan, learned counsel appearing for the petitioner and Mr.G.Prasanna Venkatesh, learned counsel appearing for the 1st respondent, Mr.A.Arasuganesan, learned counsel appearing for the 2nd respondent and Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side) appearing for the 3rd respondent and all the materials available on record are perused.

8.It is the submission of the learned counsel for the petitioner that the concerned Public Prosecutor, an officer of the Court is expected to discharge his official duty in an impartial and neutral manner. However, the petitioner was forced to send representations as against the Public Prosecutor because of his biased attitude. So, the keeping of the said case on the hands of the said Public Prosecutor would not render justice to petitioner. So, the case is necessarily to be transferred. At the same time it is not the case of the petitioner that the said Public Prosecutor is still continuing in the very same capacity and he only dealing with the case.

So, in the considered opinion of this Court, it is unnecessary to transfer the said case based on the allegation of the petitioner.

9.As per the petition this Court has taken note of the fact that the case sought to be transferred is pending nearly about 9 years to reach its finality. So, in order to avoid further delay in reaching finality, the Court concerned is directed to dispose of the case within the period of 4 months from the date of receipt of copy of this order. The Court concerned is further directed to afford all the opportunities to all the parties concerned while conducting the trial as per law.

10.In the result:

(a) this Criminal Original Petition is disposed of with the direction to the learned Sessions Court, Villupuram, to expediate the trial and dispose the same;

(b) the said exercise shall be done within a period of six months from the date of receipt of a copy of this order;

(c) it is needless to say that whenever the petitioner made complaint for protection, the same may be considered

by the learned District Sessions Judge suitably.

Consequently, connected miscellaneous petition is closed.

05.04.2017

Note: Issue order copy on 29.08.2017

Internet : Yes

Index : Yes

vs

To

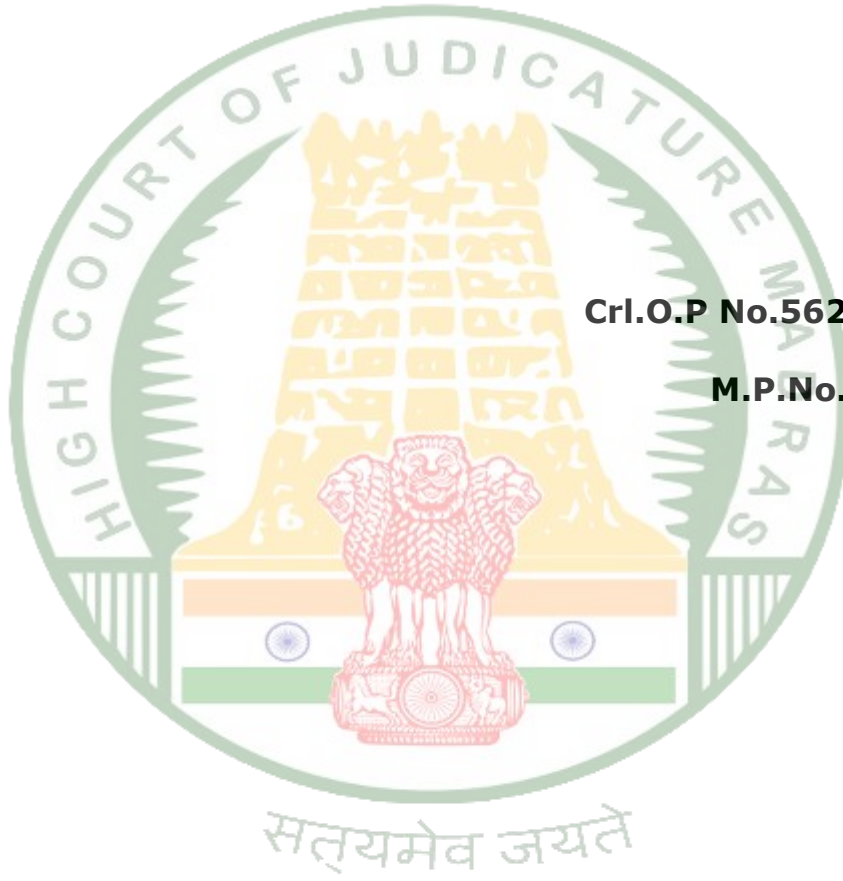
The District Sessions Court,
Villupuram



WEB COPY

M.V.MURALIDARAN,J.

VS



**Crl.O.P No.5625 of 2011
and
M.P.No.1 of 2011**

WEB COPY

05.04.2017