

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2017

(Orders reserved on 18.07.2017)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.O.P.Nos.14695 and 14680 of 2012

and

M.P.Nos.1 and 1 of 2012

In Crl.O.P.No.14695/2012:-

Renuga Devi ... Petitioner/2nd Accused

.. Vs ..

1. The Superintendent of Police,
Crime Branch CID,
South Zone,
Guindy, Chennai. ... Respondent/Complainant

2. Gopalakrishnan ... Respondent/1st Accused

3. Anandheeswaran ... Respondent/De facto
Complainant

In Crl.O.P.No.14680/2012:-

Renuga Devi ... Petitioner/De facto
Complainant

.. Vs ..

1. The Superintendent of Police,
Crime Branch CID,

South Zone,
Guindy, Chennai.

... Respondent/Complainant

2. Anandheeswaran

... Respondent/Accused

Prayer in both Crl.O.Ps..: Criminal Original Petitions filed under Section 407 of Cr.P.C., to withdraw the cases in C.C.Nos.115 and 114 of 2012 respectively pending on the file of the learned Chief Judicial Magistrate, Coimbatore, to any other Sessions Division.

In Crl.O.P.No.14695/2012:

For Petitioner : Mr.V.Lakshmi Narayanan
for Mr.M.Guruprasad
For R-1 : Mr.B.Ramesh Babu,
Government Advocate (Crl.Side)
For R-2 : Mr.Arun Anbumani
For R-3 : Mr.J.Pothiraj

In Crl.O.P.No.14680/2012:

For Petitioner : Mr.V.Lakshmi Narayanan
for Mr.M.Guruprasad
For R-1 : Mr.B.Ramesh Babu,
Government Advocate (Crl.Side)
For R-2 : Mr.J.Pothiraj

COMMON ORDER

Crl.O.P.No.14695 of 2012 is filed by the second accused in C.C.No.115 of 2012 for transfer of the case in C.C.No.115 of 2012 pending before the learned Chief Judicial Magistrate, Coimbatore, to any other Sessions Division.

2. Crl.O.P.No.14680 of 2012 is filed for transfer of the case in C.C.No.114 of 2012 pending before the learned Chief Judicial Magistrate, Coimbatore, to any other Sessions Division.

3. Learned counsel appearing for the petitioner submitted that the petitioner in Crl.O.P.No.14695 of 2012 is the Sub-Inspector of Police attached to Karamadai Police Station, Coimbatore. On 07.10.2011, while she was working as Sub-Inspector of Police in Thudiyalur police station, in connection with the complaint given by one Maruthapillai, the third respondent's client one Parameshwaran was summoned and the said Parameshwaran was accompanied by the third respondent herein, who is a practicing advocate. In the course

of enquiry, the third respondent herein had stated that it is purely civil in nature and also stated that a Civil Suit in O.S.No.1773 of 2010 on the file of Principal District Munsif Court, Coimbatore, is pending and according to the petitioner, there was an untoward incident taken place resulted in filing of two FIRs. In Crime No.1565 of 2011, the petitioner herein and the second respondent were arrayed as accused while in the counter case given by the petitioner in Crime No.1564 of 2011, the third respondent, who is the de facto complainant was arrayed as accused.

4. Since both the cases ripe for trial and the de facto complainant in C.C.No.115 of 2012 is a practicing advocate in Coimbatore, no advocate of the Coimbatore Bar is ready to accept the Vakalath of the petitioner and to appear on her behalf and hence, the petitioner herein, who is a lady police, is unable to defend the case in C.C.No.115 of 2012 and the atmosphere prevailed in Coimbatore is also not conducive and hence, she has to engage an advocate from the nearby District and seeks for transfer of both the cases in C.C.Nos.115 and 114 of 2012 to some other District for trial.

5. Learned counsel appearing for the third respondent in Crl.O.P.No.14695 of 2012 [second respondent in Crl.O.P.No.14680 of 2012] submitted that an advocate, who accompanied his client, explained the police that the dispute alleged before the police station is purely civil in nature. Without considering the nature of the dispute involved therein, advocate was assaulted inside the police station for doing his professional assistance to his client and hence, as no steps were taken to book the criminal act of the police personnel in the police station at the relevant point of time, writ petitions have been filed before this Court in W.P.Nos.25420, 25563 and 26264 of 2011 whereby, the investigation has been transferred from regular police to CBCID and after investigation in respect of the complaint given by the third respondent herein, charge sheet has been laid against the petitioner and the second respondent herein in respect of Crime No.1565 of 2011 for the alleged offences under Sections 323, 324 and 326 of IPC. So also based upon the complaint given by the petitioner herein in respect of Crime No.1564 of 2011, a charge sheet has been filed for the alleged offences under Sections 332 and 353 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman's Act 1998

against the third respondent herein and the matters are ready for trial.

6. Learned counsel appearing for the third respondent in Crl.O.P.No.14695 of 2012 further submitted that even in the year 2012 itself, summons to the witnesses have been issued and after completion of the formalities, necessary charges have been framed and both the cases were ready for trial as early as in the year 2006. At this juncture, on an imaginary ground, the petitioner herein has come forward with these transfer petitions and the grounds alleged are all imaginary and invented for the purpose of stalling the proceedings and prayed for dismissal of the transfer petitions.

7. After hearing both the parties, it is seen that the third respondent herein, who is a practicing advocate in Coimbatore Bar accompanied his client to the police station in connection with an enquiry and he alleges that the matter is purely civil in nature and no criminal enquiry is required and he further alleged that the policeman in uniform had attacked him and caused severe injuries and as the investigation by the local Inspector of Police was not satisfactory, they

have moved writ petitions wherein, investigation has been transferred to CBCID and after completion of investigation, the first respondent police has filed charge sheet and the same has been taken on file as C.C.Nos.115 and 114 of 2012 and matters are ready for trial.

8. Learned counsel appearing for the petitioner has submitted that the petitioner is a woman police attached to Karamadai police station and under Section 303 of Cr.P.C., she has right to engage a counsel of her choice and since no advocate has come forward from Coimbatore Bar, she was forced to engage a counsel from the neighbouring District and the atmosphere in Coimbatore is not conducive for conduct of fair trial.

9. I have considered the rival contentions.

10. The cases involve an advocate practicing in the Coimbatore bar who has been assaulted inside the police station by the police personnel in the uniform and resulted in registration of a case in Crime No.1565 of 2011 for the alleged offences under Sections 323, 324 and 326 of IPC. It is also seen that based upon the complaint

given by the petitioner herein, who is the second accused, after investigation, charge sheet has been filed and the case is taken as C.C.No.114 of 2012. Considering that in Crime No.1565 of 2011, the de facto complainant is advocate while the accused are police personnel and in Crime No.1564 of 2011, advocate has been arrayed as an accused, in the interest of justice, this Court is of the view that the situs of criminal trial of both the cases be shifted to nearby District to ensure fair trial in both the cases.

11. Accordingly, the cases in C.C.Nos.115 and 114 of 2012 pending on the file of the learned Chief Judicial Magistrate, Coimbatore, are withdrawn from the file of the learned Chief Judicial Magistrate, Coimbatore and the same are ordered to be transferred to the file of learned Chief Judicial Magistrate, Thiruppur, who has to take both the cases on file and dispose the same in accordance with law, within a period of twelve weeks from the date of receipt of records from the learned Chief Judicial Magistrate, Coimbatore.

12. In the result, both the Criminal Original Petitions are allowed. The learned Chief Judicial Magistrate, Coimbatore, is

required to forward the records to the learned Chief Judicial Magistrate, Thiruppur, within a period of two weeks from the date of receipt of a copy of this order and on such receipt, learned Chief Judicial Magistrate, Thiruppur, shall take the same on file, number the same, follow the procedures and dispose of the same within twelve weeks thereafter. Consequently, the connected miscellaneous petitions are closed.

29.08.2017

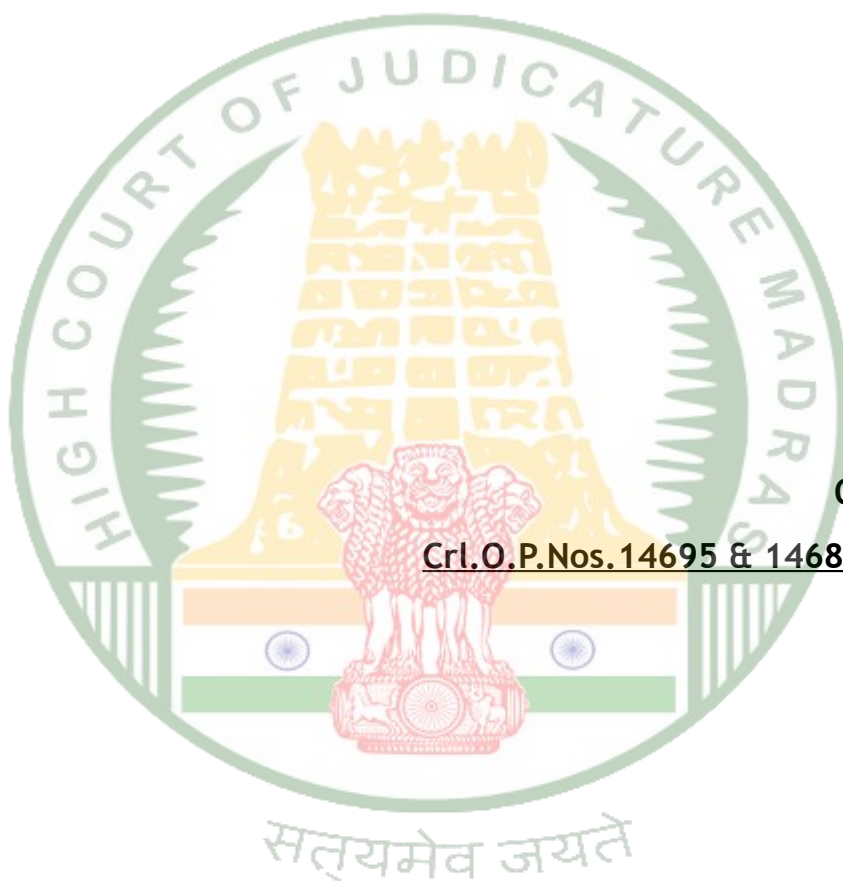
Index : Yes
Internet : Yes
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To

1. The Chief Judicial Magistrate,
Coimbatore.
2. The Chief Judicial Magistrate,
Thiruppur.
3. The Superintendent of Police,
Crime Branch CID,
South Zone,
Guindy, Chennai.
4. The Public Prosecutor,
High Court, Madras.

RMT.TEEKAA RAMAN, J.

Jrl



Order in
Crl.O.P.Nos.14695 & 14680/ 2012

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