

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2017

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THE HON'BLE MR.JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P.No.29009 of 2013

and

M.P.No.1 of 2013

Saroja

... Petitioner

Vs

1.The Inspector of Police,
Komarapalayam Police Station,
Namakkal District,
Crime No.1074/2010

2.Perumalsamy

3.Arumugam

4.Selvaraj

5.Kanagu @ Kanagaraj

6.Palanisamy

7.Sengottaiyan

8.Sellamuthu

... Respondents

Criminal Original Petition filed under Section 407 Cr.P.C to withdraw the case in C.C.No.46/2011 on the file of Judicial Magistrate, Thiruchengode and transfer the same to any other competent court out of Namakkal District to try the case in accordance with law.

For Petitioner

: Mr.I.C.Vasudevan

For 1st Respondent

: Mr.B.Ramesh Babu
Government Advocate (Crl. Side)

For 2nd to 8th Respondents: No appearance
ORDER

This Criminal Original Petition has been filed seeking withdrawal of the case in C.C.No.46 of 2011 on the file of Judicial Magistrate, Thiruchengode and transfer the same to any other competent court out of Namakkal District.

2. The ground raised by the petitioner in this petition for transfer is that the petitioner's son namely one Muniraj is a practicing Lawyer and since he appeared in a criminal case of some other accused persons, the accused persons in this case, who are conducting 'Katta Panchayat' imposed a fine of Rs.5000/- to the petitioner's son. Since he refused to pay the fine amount to the said Panchayat, the respondents 2 to 8 forcibly assaulted the petitioner and also molested her on 26.12.2010 at about 10.30 a.m, for which the petitioner lodged a complaint before the 1st respondent police and the same was registered in Crime No.1074/2010 for the offences under sections 147, 148, 294(b), 324, 354 and 506(ii) IPC and final report was filed and the same was taken on the file of Judicial Magistrate, Thiruchengode in C.C.No.46/2011 and the case was pending trial. On 30.10.2013, when the case was posted for examination of prosecution witnesses, the petitioner was unable to attend the court since her husband and son were not feeling well and therefore, sought adjournment for 15 days. But the Magistrate had returned the petition and issued bailable warrant to

the petitioner by openly telling that the court would go to acquit the accused persons. The petitioner averred that the act of the presiding officer had created a reasonable doubt in her mind that she would not get a fair trial and approached this Court seeking transfer.

3. It has now been submitted by the learned counsel for the petitioner that the concerned presiding officer has been transferred and he has no objection in the trial being conducted on the file of the same court.

4. It has been submitted by the learned Government Advocate (Crl. Side) that because of the petition pending here, the case had been pending before the trial Court.

5. It is seen that the remarks were called for from the concerned Magistrate. Further, it is seen that summons have been issued to the petitioner and as she was not present, witness warrant has been issued on 06.11.2013, but not on 30.10.2013. It has been confirmed by the learned Government Advocate. The explanation given by the Magistrate dated 25.11.2013 is accepted.

6. In view of the representation made by the learned counsel for the

petitioner that the concerned presiding officer has been transferred, the grounds raised by the petitioner is not sustainable. Hence this Criminal Original

A.D. JAGADISH CHANDIRA,J
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Petition stands dismissed. The Judicial Magistrate, Thiruchengode is directed to conduct the trial as expeditiously as possible and complete the trial preferably within six months from the date of receipt of a copy of this order.

30.08.2017

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Index : Yes
Internet: Yes

To

1. Judicial Magistrate, Thiruchengode,
2. The Public Prosecutor, High Court, Chennai.
3. The Inspector of Police,
Komarapalayam Police Station,
Namakkal District.

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