



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P (MD)No.10355 of 2017

and

CRL.M.P. (MD)No.7096 of 2017

Kutty @ Ramesh

: Petitioner/Defacto Complainant

Vs.

State rep. by,
The Inspector of Police,
CBCID, Nagercoil,
Kanyakumari District.
(Crime No.868 of 2010)

: Respondent/Petitioner

PRAYER: Criminal Original Petition is filed under Section 407 of Criminal Procedure Code, to withdraw the case in S.C.No.49 of 2017 on the file of the Principal District and Sessions Judge, Nagercoil, Kanyakumari District, and transfer the same to some other Court outside the Kanyakumari District.

For Petitioners : Mr.S.Ramasamy

For Respondent : Mr.K.Anbarasan,
Government Advocate(Crl.Side).

O R D E R

This Criminal Original petition is filed to withdraw the case in S.C.No.49 of 2017 on the file of the learned Principal District and Sessions Judge, Nagercoil, Kanyakumari District, and to transfer the same to some other Court outside Kanyakumari District.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Criminal side) appearing for the respondent.

3. The petitioner stated that he is the defacto complainant in Crime No.868 of 2010, for committing a murder of the petitioner's brother, namely, Manikandan.



4. The learned counsel for the petitioner stated that the third accused is an Advocate, practising in the same Court where the case is pending. Further, it is submitted that the fourth accused is the Sub-Inspector of Police, who is working in Kottar police station, Nagercoil. In these circumstances, for a fair and impartial trial, the petitioner has come forward with the prayer for transferring the above criminal case.

5. The learned counsel for the petitioner relied upon a Judgment of this Court, in the case reported in **(2002) M.L.J. (Crl.) 946**, in **re. Additional District Judge-cum-Chief Judicial Magistrate, Kanyakumari**, this Court has held as follows:-

" 7. In this case, the trial Court has given a valid reason that the accused was a practising advocate of the same Court and prayed for transfer of the case to any other Court outside the District. The report of the lower Court seeking for transfer is reasonable. Further, the counsel for the accused has also no objection for the same. Hence, it is ordered that S.C.No.286 of 2000 pending on the file of the learned Additional District Judge-cum-Chief Judicial Magistrate is transferred to Principal District Judge, Tirunelveli. The Additional District Judge-cum-Chief Judicial Magistrate is directed to forward the bundles to the Principal District Judge, Tirunelveli within seven days from the receipt of this order, on receipt of the same, the learned Principal District Judge is directed to dispose of the case within one month. The petition is ordered on the above terms."

6. Considering the facts and circumstances of this case and the nature and grievance expressed by the petitioner in this case, this Court is inclined to allow this petition.

7. As a result, the Criminal Original petition is allowed and the criminal proceedings in S.C.No.49 of 2017 which is pending on the file of the learned Principal District and Sessions Judge, Nagercoil, is withdrawn and transferred the same to the learned Principal District and Sessions Judge, Tirunelveli. The learned Principal District and Sessions Judge, Nagercoil, is directed to send the records of the case in S.C.No.49 of 2017 to the learned Principal District and Sessions Judge, Tirunelveli, as expeditiously as possible, preferably, within a period of two weeks from the date



of receipt of a copy of this order. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

WEB COPY

/True Copy/

Sub Assistant Registrar

To

1. The Principal District and Sessions Judge,
Tirunelveli.
2. The Principal District and Sessions Judge,
Nagercoil, Kanyakumari District.
3. The Inspector of Police,
CBCID, Nagercoil,
Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.S.RAMASAMY, ADVOCATE IN SR No. 71238

PMU

TE/MR-KKR/SAR-II : 18/08/2017 : 3P/6C

CRL OP(MD)No.10355 of 2017 and
CRL.M.P.(MD)No.7096 of 2017
08.08.2017