



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP.(MD)No.11506 of 2017

and

CRL.M.P.(MD)No.7898 of 2017

Ramadass

...Petitioner/Accused No.2

Vs.

The Inspector of Police,
Mathukur Police Station,
Thanjavur District.
(In Crime No.206 of 2009)

...Respondent/Complainant

PRAYER: Criminal Original petition is filed under Section 407 of Criminal Procedure Code, to withdraw the case in S.C.No.71 of 2014 on the file of the learned III Additional District and Sessions Judge, Pattukottai, Thanjavur District and to transfer the same to the file of any other competent Court in any other District.

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

ORDER

This Criminal Original Petition is filed to withdraw the case in S.C.No.71 of 2014 on the file of the learned III Additional District and Sessions Judge, Pattukottai, Thanjavur District and to transfer the same to the file of any other competent Court in any other District.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.Side) appearing for the respondent.

3. The petitioner is the second accused in the criminal case. The petitioner and other accused were charged in S.C.No.71 of 2014 on the file of the learned III Additional District and Sessions Judge, Pattukottai, for the offences under Sections 120(b), 294(b), 302, 342, 352, 302 and 307 I.P.C., r/w 34 I.P.C. The trial Court has convicted the petitioner for the offences under Sections 120(b), 294(b), 352 and 307 r/w 34 I.P.C. As against the Judgment of the trial Court, the matter was taken on appeal in a Batch of Appeals in Crl.A.(MD)Nos.73, 81, 82, 250 and 251 of 2016 before

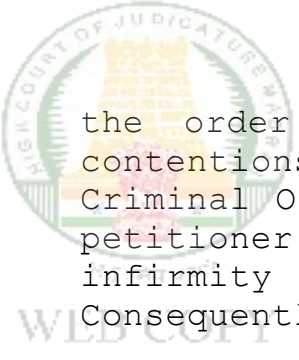


this Court and this Court allowed the appeals and remitted the matter back with the following direction:-

" 17. In the result, CrI.A.(MD)Nos.73, 81, 82 and 250 of 2016 filed by the accused Nos.1 to 4 are allowed, the conviction and sentence imposed on the accused Nos.1 to 4 are set aside; CrI.A.(MD)No.251 of 2016 filed by the defacto complainant against the acquittal of the accused Nos.1 to 4 from some of the charges is also allowed and the case in S.C.No.71 of 2014, on the file of the learned III Additional District and Sessions Judge, Pattukottai, is remanded back to the trial Court for fresh disposal in accordance with law. The trial Court shall alter the charges, appropriately, as indicated in the Judgment, afford sufficient opportunity to the prosecution to let in additional evidence, if any, either oral or documentary and also allow the prosecution to recall any witness examined already for the purpose of further examination. Similarly, the trial Court shall allow the accused Nos.1 to 4 to recall any witness already examined by the prosecution for the purpose of further cross-examination and allow the accused Nos.1 to 4 to let in evidence on their side, either oral or documentary. At any rate, the trial Court shall dispose of the case within a period of six months from the date of receipt of a copy of this Judgment. Consequently, connected Miscellaneous petition is closed."

4. After the order of remand, the charges were altered by the III Additional District and Sessions Judge, Pattukottai. It is on the ground that the trial Court has wrongly altered the Charges pointed out in the order of remand, the learned counsel for the petitioner submitted that the petitioner is aggrieved and that it is a fit case to transfer the investigation. The learned counsel for the petitioner also relied upon the Judgment of the Hon'ble Supreme Court in the case of **K.Anbazhagan V. Superintendent of Police**, reported in (2004) 3 SCC 767, wherein, the Hon'ble Supreme Court has held as follows:-

<https://hcservices.ecourts.gov.in/hcservices> 5. At this stage, we may notice a few decisions of this Court with regard to the



the order of remand. This Court is not able to accept the contentions of the learned counsel for the petitioner. Hence, the Criminal Original petition is dismissed. It is always open to the petitioner to challenge the final order if there is legal infirmity in framing the charges or altering the charges. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

1. The III Additional District and Sessions Judge,
Pattukottai, Thanjavur District.
2. -Do- Thro Principal Sessions Judge, Thanjavur.
3. The Inspector of Police,
Mathukur Police Station,
Thanjavur District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.C.Arul Vadivel @ Sekar, Advocate Sr.No.76192

PMU

VB/KK/SAR4/11/10/2017/4P/6C

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