



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.1841 of 2017

1.Kamaraj
2.Espin Shabin
3.Rajan : Petitioners/Accused No.1 to 3

-Vs-

1.The Sub Inspector of Police,
Palugal Police Station,
Kanyakumari District. : 1st respondent / Complainant
2.Sunil Kumar : 2nd respondent /
De-facto complainant

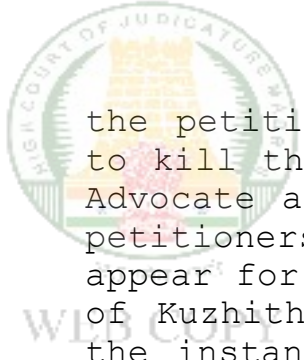
PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to transfer the case in C.C.No.26 of 2016 from the file of the learned Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District to any other Court in Madurai.

For Petitioners : Mr.K.Ramamoorthy
For Respondent 1 : Mr.K.Anbarasan
Government Advocate (Crl. Side)
For Respondent 2 : No appearance

O R D E R

This petition is filed to transfer the case in C.C.No.26 of 2016 from the file of the learned Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District, to any other Court in Madurai.

2.The learned counsel appearing for the petitioners states that the first respondent registered a case in Crime No.107 of 2011 as against the second respondent and his friend. However, a counter case was preferred by the second respondent and it was registered in Crime No.108 of 2011 for offences punishable under Sections 294(b), 323 and 506(ii) of I.P.C. After filing charge sheet, the case was taken on file by the learned Judicial Magistrate No.I, Kuzhithurai and numbered as C.C.No.26 of 2016. The petitioners have stated in the petition that the second respondent is threatening the first petitioner and other petitioners and that therefore, the petitioners are not able to appear before the Court at Kuzhithurai. It is further stated by



the petitioners that the second respondent and his men are ready to kill the petitioners. It is also stated that the petitioners' Advocate also is being threatened not to appear on behalf of the petitioners. Since the Advocate was given protection only to appear for the petitioners in any other Court but not in the Court of Kuzhithurai, the petitioner states that there is a threat at the instance of the second respondent to the petitioners if they appear before the Judicial Magistrate, Kuzhithurai. It is in these circumstances, the learned counsel for the petitioners states that it is a fit case for transfer of proceedings to some other Court and it will get justice to the petitioners. The only ground ultimately the learned counsel for the petitioners makes out before this Court is that the petitioners are being threatened by the de-facto complainant. The petitioners despite given opportunity were not able to produce any material except the complaint which the petitioners have preferred to the Superintendent of Police. Even in the complaint that was preferred by the petitioners to the Superintendent of Police on 27.09.2017, the petitioners have not referred to any incident or attempt being made by the de-facto complainant to prevent the petitioners from appearing the Court. Even assuming that the petitioners are under threat by the de-facto complainant, it is open to the petitioners to seek police protection or to pursue the representation that they have already made before the Superintendent of Police on the ground that their life is under threat so that the petitioners may be able to appear before the lower Court. Absolutely no material or a scrap of paper is produced before this Court to justify the transfer.

3. Having regard to the facts and circumstances of this case, this petition does not have any merits and the same is liable to be dismissed. Hence, this Criminal Original Petition is dismissed with liberty to pursue his representation seeking police protection.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

1. The Judicial Magistrate No.I, Kuzhithurai.
 2. The Sub Inspector of Police, Palugal Police Station, Kanyakumari District.
 3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
- +One cc to M/s.K.Ramamurthy, Advocate, SR.No.76990

SRM

RL/5C/2P/SV/MMS/SAR1/14/9/2017