



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

CRL. O.P(MD)No.15628 of 2016

and

CRL. M.P(MD) No.7452 of 2016

Jeyalakshmi

: Petitioner

Vs.

1.The Inspector of Police,
Kulithalai Police Station,
Karur District.

2.Kumaravel

3.Anuradha

: Respondents

PRAYER: Criminal Original Petition is filed under Section 407 of the Criminal Procedure Code, to withdraw and transfer C.C.No.26 of 2016 on the file of the learned Judicial Magistrate, No.II, Kulithalai to any other Judicial Magistrate Court located in any district other than Karur District and Trichy District.

For Petitioner

: Mr.T.M.Madasamy

For R1

: Mr.K.Anbarasan,

Government Advocate(Crl.Side).

For R2 & R3

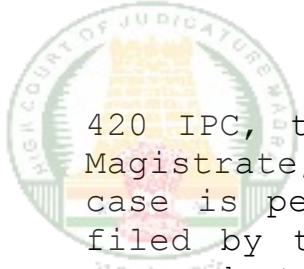
: Mr.R.M.Sivakumar

O R D E R

This Criminal Original Petition has been filed to withdraw and transfer C.C.No.26 of 2016 on the file of the learned Judicial Magistrate, No.II, Kulithalai to any other Judicial Magistrate Court located in any district other than Karur District and Trichy District.

2.Heard the learned counsel for the petitioner, the learned Government Advocate (Crl.Side) appearing for the 1st respondent and the learned counsel appearing for the 2nd and 3rd respondents.

3.The case of the petitioner is that the second respondent, cheated the petitioner under pretext of getting a job for the petitioner in Tamil Nadu Electricity Board. It is stated that the respondents 2 and 3, who are husband and wife, have committed cheating and other offences and therefore a complaint was given by the petitioner as against the private respondents and the same was registered in Cr.No.225 of 2014. After filing the charge sheet, for offences punishable under Sections 294(b), 323, 506(ii), 406 &



420 IPC, the case was taken on the file of the learned Judicial Magistrate, No.II, Kulithalai in C.C.No.26 of 2016. Though the case is pending from 2016, the present petition for transfer, is filed by the de-facto complainant on the ground that the second respondent is a practicing Advocate in Kulithalai, and that the third respondent is also a police constable working near Kulithalai. Since the 2nd and 3rd respondents are threatening the petitioner, the petitioner apprehend that he may not get justice, if the proceedings of trial is conducted in Kulithalai.

4.The learned counsel for the private respondents submitted that the petition for transferring the case is not sustainable. He further submitted that he has obtained a direction from this Court for early disposal of the proceedings in C.C.No.26 of 2016 by filing a writ petition in W.P.(MD)No.18134 of 2016 and therefore the present petition to transfer cannot be entertained. The contention of the learned counsel for the private respondents has no merits. It is also brought to the notice of this Court, that the petitioner is not a party in the above said writ petition.

5.First of all, it is to be noted that the present petition has been filed in August 2016, and only after 1 month, the respondent 2 and 3 have preferred Writ Petition for directing the lower Court to dispose of the criminal proceedings. The learned counsel for the private respondents then submitted that the relief for transferring the proceedings in this case is not supported by any *bonafide* reason and submitted further that the proceedings cannot be allowed to be transferred merely for the asking and that convenience of the parties is not a ground for allowing transfer.

6.The fact that the second respondent is a practicing Advocate in Kulithalai, is not in dispute. Similarly the fact that the 3rd respondent, wife of 2nd respondent, is a Police Constable working in a police station near Kulithalai is also not in a dispute. In that circumstances, this Court finds that the apprehension of the petitioner is reasonable. However, the request of the learned counsel for the petitioner to transfer the proceedings to any other district will cause serious prejudice to the private respondents. Hence, the Original Petition is allowed and the proceedings in C.C.No.26 of 2016 pending before the learned Judicial Magistrate, No.II, Kulithalai is transferred to learned Judicial Magistrate, No.II, Karur and the learned Judicial Magistrate, No.II, Karur may complete the trial as expeditiously as possible, preferably within a period of three months from the date of receipt of records.

7.Hence this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(crl side)



To

1.The Judicial Magistrate, No.II,
Kulithalai.

2.The Judicial Magistrate, No.II,
Karur.

3.Thro' Chief Judicial Magistrate, Karur District.

4.The Inspector of Police,
Kulithalai Police Station,
Karur District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.T.M.MADASAMY, Advocate SR.No.80065

dss/cmr

MAS/JC/SAR2:11.10.2017:3P-7C

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