



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2017

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P. (MD) No.2884 of 2017

S.M.Rajendra Raja : Petitioner/Defacto Complainant

Vs.

1. The Inspector of Police,
Rajapalayam North Police Station,
Rajapalayam,
Virudhunagar District,
Crime No.794 of 2012.

: 1st Respondent/Complainant

2.K.Ramaraj

3.M.K.Subramaniaraja

4.P.Murugan @ Murugesaraja

5.K.Gopal Raja

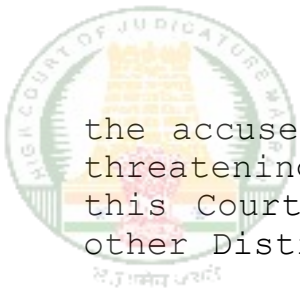
: Respondents 2to5/Accused 1to4

Prayer: Criminal Original Petition is filed under Section 407 of the Code of Criminal Procedure, praying to withdraw the case in S.C.No.30 of 2015 on the file of the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District, at Srivilliputhur and transfer the same to any other competent Court in nearer District.

For Petitioner : Mr.S.Ayyanar Prem Kumar

For Respondent No.1 : Mr.A.P.Balasubramani,
Government Advocate (Crl.side)**O R D E R**

Pursuant to the suicide committed by Jegatha, the sister of the petitioner in her matrimonial home, the respondent police registered a case in Crime No.794 of 2012 and after completing the investigation, has filed a final report and the case is now pending in S.C.No.30 of 2015 before the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputhur, for offences under Sections 306, 342, 201, 294(b) and 506(i) of the Indian Penal Code r/w Section 34 of the Indian Penal Code against Ramraj and three others. The petitioner was examined in S.C.No.30 of 2015 on 14.09.2015 and he was cross-examined by the accused on 01.10.2015. It is the grievance of the petitioner that



the accused are powerful people in the locality and that they are threatening the witnesses and, therefore, the petitioner is before this Court for transfer of the case in S.C.No.30 of 2015 to any other District.

2. Heard the learned counsel for the petitioner and Mr.A.P.Balasubramani, learned Government Advocate (Criminal side) appearing for the first respondent.

3. Mr.A.Ramkumar, Special Sub-Inspector of Police, Rajapalayam North Police Station, Virudhunagar District, is present in Court today.

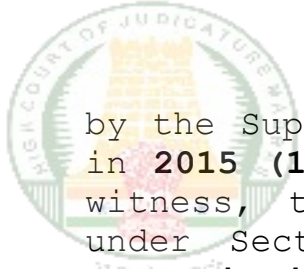
4. The learned counsel for the petitioner brought to the notice of this Court that in the cross-examination of P.W.1, scandalous questions have been asked relating to his daughter's marriage, which has no relevance to the fact in issue before the Trial Court. Therefore, the learned counsel submitted that the accused are resorting to filibustering cross-examination in order to stammer the witnesses. He also alleged that the witnesses are being threatened and that his wife has to be examined as P.W.2.

5. Per contra, the learned Government Advocate (Criminal side) submitted that the police are ready and willing to provide sufficient protection to the witnesses when they go to the Court for giving evidence.

6. This Court gave its anxious consideration to the rival submissions.

7. On a reading of the cross-examination of P.W.1, it is true that the total irrelevant questions have been put to the witness only for the purpose of harassing him. It is the duty of the Presiding Judge to control the proceedings and not permit irrelevant questions being asked for harassing a witness. Every witness performs the public duty by coming to the Court and giving evidence in the criminal case and, therefore, it is the duty of the police and the Court to afford sufficient protection to such witnesses when they come to give evidence.

8. Therefore, this Court directs the respondent police to provide escort to the petitioner's wife when she goes to give evidence before the Trial Judge. The learned Trial Judge is directed to put a screen between the witness and the accused and permit only the counsel for the accused to watch the witness depose. The learned Trial Judge is directed not to permit irrelevant and threatening questions, if, put up by the counsel for the accused to the witness. The witness must be offered a seat and must be provided with drinking water. She must be cross-examined on the day when she examined in chief, as directed



by the Supreme Court in **Vinod Kumar vs. State of Punjab** reported in **2015 (1) Scale 542**. If the accused fail to cross-examine the witness, they should forfeit their right to recall the witness under Section 311 of the Code of Criminal Procedure. If the accused adopt any dilatory tactics, it is open to the Trial Court to remand them to custody, in the light of the law laid down by the Supreme Court in **State of U.P. vs. Shambhu Nath Singh** reported in **2001(4) SCC 667**.

9. In the considered opinion of this Court, these directions are sufficient to ensure that there is fair trial for the victim side also and, therefore, it is not necessary to transfer the case to any other District.

10. With the above direction, this Criminal Original Petition is closed.

sd/-

Assistant Registrar(AD-II)

/ TRUE COPY /

Sub-Assistant Registrar

To

1. The Sessions Judge,
Fast Track Mahila Court,
Virudhunagar District, at Srivilliputhur.
2. The Inspector of Police,
Rajapalayam North Police Station,
Rajapalayam, Virudhunagar District,
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 cc to MR.S.Ayyanar Prem Kumar,ADVOCATE, SR No. 14677

Order made in
CRL.O.P. (MD)No.2884 of 2017
Dated: 15.03.2017

SML

MKV-SV-MMS-SAR 2/17.3.2017/3P-5C