



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.(MD) No.3903 of 2017

AND

CRL.M.P.(MD)No.2864 of 2017

G.Selvarajan

... Petitioner

-vs-

N.Mahendran

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to withdraw the case in STC No.593/2012 on the file of the learned Judicial Magistrate, No.II, Thiruvannamalai and transfer the same to the learned Judicial Magistrate, Aranthangi, Pudukottai District.

For Petitioner : Mr.B.N.Raja Mohamed

O R D E R

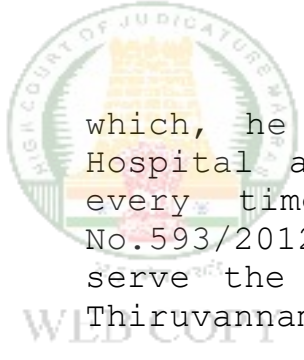
For the sake of convenience, the parties are referred to by their names.

2. Mahendran has initiated a prosecution in STC No.593/2012 against Selvarajan before the Judicial Magistrate, No.II, Thiruvannamalai for offence under Section 138 of the Negotiable Instruments Act.

3. It is the case of Selvarajan that Mahendran has initiated another prosecution under Section 138 of the Negotiable Instruments Act in C.C.No.445/2011 before the Judicial Magistrate, Aranthangi. Therefore, Selvarajan is before this Court for transfer of STC No.593/2012 from the file of Judicial Magistrate, No.II, Thiruvannamalai to the Court of Judicial Magistrate, Aranthangi.

4. Heard Mr.B.N.Raja Mohamed, learned counsel for Selvarajan.

<https://hcservices.ecourts.gov.in/hcservices/> Mr.B.N.Raja Mohamed contended that Selvarajan is suffering from serious physical ailments and gets seizures frequently, for



which, he is taking treatment at the Thanjavur Medical College Hospital and therefore, he is finding it very difficult to go every time to Thiruvannamalai to face the trial in STC No.593/2012. Therefore, Mr.Raja Mohamed contended that it will serve the interest of justice, if the case is transferred from Thiruvannamalai to Aranthangi.

6. This Court gave its anxious consideration to the submissions made by Mr.Raja Mohamed.

7. Under the amended provision to Section 142 of the Negotiable Instruments Act, the Magistrate, in whose jurisdiction the bank of the complainant is located will have the territorial jurisdiction to try the offence under Section 138 of the NI Act. In this case, Selvarajan had given a cheque drawn on ICICI Bank, Aranthangi, which was deposited by Mahendran in his Bank at Thiruvannamalai. Therefore, the Judicial Magistrate, No.II, Thiruvannamalai, has the jurisdiction to try the case in STC No.593/2012. It will cause undue inconvenience to the witnesses of Mahendran, if the case is transferred from Thiruvannamalai to Aranthangi. Therefore, the plea for transfer cannot be acceded and consequently, this petition is closed.

8. However, the presence of Selvarajan before the Judicial Magistrate, No.II, Thiruvannamalai can be dispensed with, taking into consideration his ailments, he suffers. Selvarajan is directed to appear before the Judicial Magistrate, NO.II, Thiruvannamalai within two weeks from the date of receipt of a copy of this order and on such appearance, he shall be released on bail under Section 436 of the Code of Criminal Procedure on the same day on he furnishing a bond for Rs.10,000/- without sureties. However, Selvarajan shall appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., for framing the charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioner files an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist upon his presence. Consequently connected Miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR (CS-III)

/TRUE COPY/



To:

1.The Judicial Magistrate, No.II, Thiruvannamalai

2.The Judicial Magistrate, Aranthangi, Pudukottai District.

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+1 CC TO M/S.B.N.RAJAMOHAMED, ADVOCATE, SR NO.50119

RR

MAS/MR:19.04.2017:3P-4C

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