



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.04.2017

CORAM:

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

Crl.O.P. (MD) No.4717 of 2017

... Petitioner/A1

-vs-

1. State rep. by
The Inspector R.P.F.,
Southern Railway,
Viruthunagar
(Crime No.KKDI/RP(UP)2/2007)

2. S.K.V.Balasubramani @ Mani

3. A.Veeramani

4. Ansari

5. Abdulsalam

6. K.Santhanam

7. G.Azeez

8. G.Shagulhameed

... R2 to R8/A2 to A8

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to transfer the C.C.No. 48/2008 on the file of the learned Judicial Magistrate, Pudukottai to learned Judicial Magistrate No.VI, Trichy.

For petitioner

:Mr.T.Senthil Kumar

For R1

:Mr.A.P.Balasubramani

Govt. Advocate (Crl. Side)

O R D E R

This petition has been filed to transfer the C.C.No. 48/2008 on the file of the learned Judicial Magistrate, Pudukottai to learned Judicial Magistrate No.VI, Trichy.

2. It is seen that this petitioner is facing trial in C.C.No.48 of 2008 before the learned Judicial Magistrate Pudukottai on the complaint lodged by R1 for the unlawful possession of certain railway properties, which is punishable under The Railway Property (Unlawful Possession) Act, 1966 (in short the "RPUP Act"). It is the case of the petitioner that he was illegally detained by the Railway Officials a day prior to 11.05.2007 and they demanded bribe from him. Since the petitioner did not give the bribe amount, a false case has been registered by the RPF against the petitioner under RPUP Act and the petitioner was arrested by the Police. After the release of the petitioner in the year 2007, the petitioner said to have filed a private complaint before the learned Chief Judicial Magistrate, Trichy, which was taken on file



in Cr.M.P.No.4722 of 2009 and after recording the statement of witnesses, the case is now pending before the learned Judicial Magistrate No.VI, Trichy in PRC No.9 of 2013. Therefore, the petitioner is before this Court for transfer of C.C.No.48 of 2008 from the file of Judicial Magistrate, Pudukottai to the file of Judicial Magistrate No.VI, Trichy to be tried along with PRC No.9 of 2013.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for R1.

4. Mr.Praveen Kumar, Inspector/RPF/Manamadurai is present before this Court. On instructions, learned Government Advocate (Crl.Side) submitted that out of 24 witnesses, 19 witnesses were already examined in C.C.No.48 of 2008 by the prosecution before the learned Judicial Magistrate, Pudukottai, but the petitioner has not chosen to cross examine any of the witness. Therefore, it is contended by the learned Government Advocate (Crl.Side) that only to drag on the proceedings, this transfer petition has been filed.

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

6. The prosecution in this case was launched in the year 2007 against the petitioner and the petitioner was arrested and released on bail sometime in May, 2007. A private complaint has been filed by the petitioner in the year 2008 alleging certain allegations against the Railway Officials. The petitioner has not chosen to approach this Court immediately at the time of commencement of trial in C.C.No.48 of 2008 and the learned Judicial Magistrate, Pudukottai has examined 19 witnesses and appreciated their evidence. In a case under RPUP Act, the procedure that has to be followed is adumbrated under Chapter XIX-B (Cases instituted otherwise than on police report) of the Cr.P.C. At this juncture, it will not be appropriate for this Court to transfer the case to the learned Judicial Magistrate No.VI, Trichy on the ground that that the petitioner has filed a private complaint against Officials, which is pending there.

7. In the result, this petition is devoid of merits and the same is accordingly dismissed.

Sd/-
Assistant Registrar(CS II)

/True Copy/

Sub Assistant Registrar

To



2. The Judicial Magistrate No.VI,
Trichy.

3. The Inspector R.P.F.,
Southern Railway,
Viruthunagar

4. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.

+1cc to MR.T.Senthilkumar, Advocate, SR.54366

Cr1.O.P.(MD) No.4717 of 2017
26.04.2017

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