



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2017

CORAM :

**THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN**

Crl.R.C (MD) No.652 of 2017

and

Cr1 M.P(MD)No.7427 of 2017

Usharani

... Petitioner

Vs.

1.State rep.by  
The Inspector of Police,  
Thiruthangal Police Station,  
Virudhunagar District,  
Crime No.243 of 2012.

2.Ramar

3.Ramaraj Pandian

4.Krishnamoorthy

5.Shanmugaraj

6.Manimaran

7.Veerapandian

8.Ramar

... Respondents

Petition filed under Sections 397 read with 401 Cr.P.C, to call for the records in Cr1.M.P.No.9382 of 2016 in C.C.No.232 of 2012 on the file of the Judicial Magistrate Court, Sivakasi dated 03.05.2017 and set aside the same.

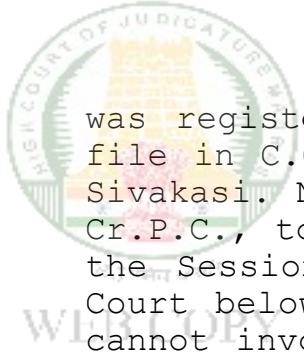
For Petitioner : Mr.G.Marimuthu

For R - 1 : Mr.C.Mayilvahana Rajendran  
Additional Public Prosecutor.

**ORDER**

Challenging the order of dismissal passed in Cr1.M.P.No.9382 of 2016 in C.C.No.232 of 2012 by the Judicial Magistrate Court, Sivakasi, this Criminal Revision Case has been filed.

2.The petitioner is the defacto complainant in C.C.No.232 of 2012 on the file of the Judicial Magistrate Court, Sivakasi. According to the petitioner, her husband was murdered by the accused/respondents 2 to 7 herein. Hence a case has been registered against them for the offence under Sections 147, 294(b), 323, 342, 302 read with 149 IPC and now the matter is pending in S.C.No.146 of 2016 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur. Before the occurrence, there is yet another occurrence, in which the petitioner's husband has been attacked by the same accused, for which, a separate case



was registered in Crime No.243 of 2012 and the same was taken on file in C.C.No.232 of 2012 on the file of the Judicial Magistrate, Sivakasi. Now the petitioner has filed a petition under Section 323 Cr.P.C., to transfer the above Calendar Case to be heard along with the Sessions Case pending on the file of the Sessions Court. The Court below has dismissed the petition stating that the petitioner cannot invoke the provision of Section 323 Cr.P.C., which is meant for committing the case during trial, if the materials on record to show that the offence made out in the case which is triable by Sessions Court.

3.I have heard Mr.G.Marimuthu, the learned counsel for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor for the first respondent and perused the materials carefully.

4.The Court below after considering the entire materials available on record, has rightly dismissed the petition. I find no illegality or infirmity in the order passed by the Court below. However, it is open to the petitioner to file a petition for transfer of the case, if it is permissible under law.

5.This Criminal Revision Case is dismissed with the above observation. Consequently, Crl.MP(MD)No.7427 of 2017 is closed.

Sd/-

Assistant Registrar(A.E)

/True Copy/

Sub Assistant Registrar

To

1.The Principal District and Sessions Court,  
Virudhunagar @ Srivilliputhur.

2.The Judicial Magistrate Court, Sivakasi.

3.The Inspector of Police,  
Thiruthangal Police Station,  
Virudhunagar District.

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

+1cc to Mr.M.JOTHI BASU, Advocate in SR. No.72779

mj

JS/KP/SAR.1/14.09.2017/2P-6c

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17.08.2017