

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2018

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

CrI.O.P.No.10058 of 2013
and
CrL.M.P.No.1 of 2013

P.A.Appasamy ... Petitioner

Vs.

1. K.Ashokan

2. R.Selvaraj ... Respondents

PRAYER: Criminal Original Petition filed under Section 407 of C.P.C., praying to withdraw and transfer the proceedings in C.C.No.60 of 2011 pending on the file of the learned Chief Judicial Magistrate, Villupuram to some other Court outside the jurisdiction of Villupuram District.

For Petitioner : Mr.M.Babu Muthu Meeran

For Respondents : Mr.R.C.Paul Kanagaraj for R1

: No Appearance for R2

O R D E R

This petition has been filed by the Accused No.2 under Section 407 of Cr.P.C to transfer the case in C.C.No.60 of 2011 from the file of the Chief Judicial Magistrate, Villupuram to some other Court other than the Villupuram District.

2. The learned counsel for the petitioner has submitted that the petitioner was working as an Inspector of Police, Prohibition and Enforcement Wing, Tindivanam, Villupuram District, he further submitted that the first respondent is a practising Advocate and he gave a private complaint against the petitioner herein and the second respondent who was working as Deputy Superintendent of Police at Tindivanam and based on the said private complaint, the Chief Judicial Magistrate, Villupuram, has taken the case on file in C.C.No.60 of 2011 under Sections 341, 294, 352, 500 and 506(ii) of IPC. He further submitted that the first respondent has also filed a suit in

O.S.No.42 of 2011 on the file of the Sub-Judge, Tindivanam, claiming compensation against the petitioner herein and the second respondent herein. He further submitted that since the first respondent is the practicing advocate at Tindivanam, he has influenced the bar members of the Villupuram and virtually prevented the bar members from appearing on behalf of the petitioner herein to defend the aforesaid criminal case as well as civil case and hence the petitioner herein has filed Tr.C.M.P.No.780 of 2011 before this Court to transfer the said suit in O.S.No.42 of 2011 from the file of the Sub Court, Tindivanam to some other Court and this Court by the Order dated 05.03.2018 has transferred the said suit to the Sub-Court, Puducherry and hence the Criminal Case in C.C.No.60 of 2011 which is pending on the file of the Chief Judicial Magistrate, Villupuram, may also be transferred to the Chief Judicial Magistrate at Puducherry.

3. The learned counsel for the first respondent has submitted that it is false to state that the first respondent has influenced the bar members and prevented them to defend the petitioner herein in the aforesaid Criminal case. He further submitted that the petitioner herein has not produced any material to show that the Bar Members of the Villupuram have taken a decision not to defend the petitioner in the aforesaid criminal case and hence he strongly opposed this petition.

4. It is seen from the typed set of papers filed by the petitioner that the first respondent herein has also filed a suit in O.S.No.42 of 2011 on the file of the Sub-Court, Tindivanam, against the petitioner herein and the second respondent herein. The petitioner has filed a petition under Section 24 of the Civil Procedure Code in Tr.C.M.P.No.780 of 2011 before this Court to transfer the aforesaid suit to some other Court on the ground that the respondent herein has prevented the Bar members of the Villupuram District from defending the petitioner herein in the suit. This Court has allowed the said petition by the Order dated 05.03.2012. In the aforesaid order in Paragraph No.4 this Court has observed as follows:

" Since the relief sought is only transfer, this Court does not want to go into the merits of the grounds raised by the learned counsel on either side. However, the learned counsel on either side have agreed for transfer of the suit to the Sub-Court, Puducherry" .

5. From the aforesaid observation, it is clear that the learned counsel for the first respondent has agreed for transfer of the suit to the Sub-Court, Puducherry. Therefore, this Court

is of the view that the case in C.C.No.60 of 2011 also to be transferred to the Chief Judicial Magistrate, Pudhucherry. Accordingly, the case in C.C.No.60 of 2011 is withdrawn from the file of the Chief Judicial Magistrate, Villupuram and transferred to the Chief Judicial Magistrate, Puducherry.

6. In the result, this petition is allowed. Consequently, connected miscellaneous petition is closed.

7. Considering the fact that the above case is pending from the year 2011, the Chief Judicial Magistrate, Puducherry is directed to dispose of the aforesaid case within six months from the date of receipt of the case records from the Chief Judicial Magistrate, Villupuram.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
Villupuram
2. The Chief Judicial Magistrate,
Puducherry
3. The Public Prosecutor,
Madras High Court,
Chennai.

सत्यमेव जयते

+1cc to M/S.M.Babu Muthu Meeran, Advocate sr.85320

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Crl.O.P.No.10058 of 2013
and
Crl.M.P.No.1 of 2013

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srg 25/01/2019