

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.8707 of 2018

and

Crl.M.P.No.5293 of 2018

S.Viswanathan

...Petitioner

Vs

1.The State of Tamil Nadu,
rep. by the Inspector of Police,
Keezhkodungalur Police Station,
Keezhkodungalur,
Tiruvannamalai District.
Crime No.20 of 2008

2. Neethibathi

3. K.Kumar

4. Kamaraj

....Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to order simultaneous trial of the proceedings in S.C.No.20 of 2016 on the file of the Assistant Sessions Court, Cheyyar and the proceedings in C.C.No.59 of 2009 on the file of the Principal District Munsif Cum Judicial Magistrate Court, Vandavasi.

For Petitioner :Mr.P.Mani

For respondents : Mrs. Kritika Kamal.P
Government Advocate (Crl. Side)

ORDER

The relief sought for in this petition is to order simultaneous trial of the proceedings in S.C.No.20 of 2016 on the file of the Assistant Sessions Court, Cheyyar and the proceedings in C.C.No.59 of 2009 on the file of the Principal District Munsif Cum Judicial Magistrate Court, Vandavasi

2. There was a quarrel between two parties in which two FIRs were registered namely Crime Nos.19/2008 and 20/2008. In Crime No.19 of 2008, investigation was completed and charge sheet was filed against four accused for the offences under Sections 294(b), 323, 506(ii), 307 and 34 IPC and the case is pending trial in S.C.No.20 of 2016 before the Assistant Sessions Judge, Cheyyar. Similarly, the investigation in Crime No.20 of 2008 was completed and charge sheet has been filed in C.C.No.59 of 2009 before the Judicial Magistrate, Vandavasi for offences under Sections 341, 294(b), 324 and 506(ii) of IPC against the three accused. While so, the defacto complainant in S.C.No.20 of 2016 has filed the present transfer application for transferring C.C.No.59 of 2009 to be tried along with S.C.No.20 of 2016 by the Assistant Sessions Court, Cheyyar.

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

4. Learned counsel for the petitioner relied on the judgement of Sudhir & Ors etc. vs. State of Madhya Pradesh etc., reported in 2001 2 SCC 688, wherein the Hon'ble Supreme Court had stated that when there is a case and counter case, it is desirable for the same Court to conduct the trial simultaneously and not jointly and pass two separate judgments.

5. However, the learned Government Advocate (Crl. Side) submitted that in both the cases witnesses have been examined and they are posted for examination of the investigation officer. The very purpose of conducting simultaneous trial is for the Presiding Officer to appreciate the evidence of the prosecution witnesses in both the cases and find out the truth. The case in CC No.59 of 2009 is triable by Magistrate and the petitioner should have taken steps to have it transferred under Section 323 Cr.P.C to the Sessions Court. However, from 2009 to 2018, the petitioner did not take any steps for transfer and now the present application is being filed for transferring the case to the Sessions Court. Since the evidence has already been recorded, it may not be desirable to transfer the case, as that would cause prejudice to the accused in C.C.No.19 of 2008 as well as to the accused in S.C.No.20 of 2016.

6. In such view of the matter, this Criminal Original Petition is closed. Consequently, the connected Miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

vum/avr

To

1. The Principal District Munsif
Cum Judicial Magistrate Court,
Vandavasi .
2. The Assistant Sessions Court,
Cheyyar.
3. The Inspector of Police,
Keezhkodungalur Police Station,
Keezhkodungalur, Tiruvannamalai District.
4. The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to P.Mani, Advocate, sr.25327

CrI.O.P.No.8707 of 2018
&
CrI.M.P.No.5293 of 2018

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GSP(16/04/2018)



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