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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.10865 of 2017

and

Crl.M.P.No.7153 of 2017

D.Sivashanmugam

.. Petitioner/ Defendant - Complainant

Vs

1.The State rep by
The Inspector of Police,
Palacode Police Station,
Dharmapuri District.
(Crime No.298 of 2011)

2.Ravi
3.Rajendran @ Mani

.. Respondents

(2nd and 3rd respondents are impleaded as per the order
dated 11.07.2017 made in Crl.M.P.No.7684 of 2017 in
Crl.O.P.No.10865 of 2017)

Criminal Original Petition filed under Section 407 Cr.P.C.,
seeking a direction to transfer the case in C.C.No.160 of 2012
on the file of learned Judicial Magistrate, Palacode,
Dharmapuri District to any other competent Court having
jurisdiction to try the said case.

For Petitioner : Mr.N.Theena Dayalan

For Respondent : Mr.C.Iyappa Raj,
Additional Public
Prosecutor for R1

O R D E R

This Criminal Original Petition has been filed seeking a
direction to transfer the case in C.C.No.160 of 2012 on the
file of the Judicial Magistrate, Palacode, Dharmapuri District
to any other competent Court having jurisdiction to try the said
case.



2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent.

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3. The petitioner, who is the defacto complainant in C.C.No.160 of 2012, is a practicing Advocate. On the complaint given by the petitioner, the Police registered a case in Crime No.298 of 2011 and after completing the investigation, filed a charge sheet before the learned Judicial Magistrate, Palacode, Dharmapuri District, against Rajendran (A1), Ravi (A2) for the offences under Sections 294(b), 323, 324 and 506(i) IPC.

4. It is the case of the petitioner that the Police should have included Sections 326 and 307 IPC. Therefore, the petitioner has filed Crl.O.P.No.21629 of 2013 before this Court and certain directions were issued by this Court. Not happy with the charges framed by the Trial Court, the petitioner has filed the present petition for transferring the case from the file of the Judicial Magistrate, Palacode, Dharmapuri District, to any other competent Court.

5. In the opinion of this Court, the petitioner has not made out a prima facie case for transfer. The petitioner has been adopting dilatory tactics by not appearing before the trial Court and not allowing the trial Court to proceed with the trial. The petitioner has not even received the summons. Therefore, the accused filed Crl.O.P.No.23711 of 2016, for a direction to the trial Court to expeditiously dispose the case.

6. This Court on 08.11.2016 has passed the following order in Crl.O.P.No.23711 of 2016:

"4.Learned Additional Public Prosecutor submitted that since the defacto complainant Sivashanmugam, [L.W.1] and Kalpana [L.W.2], are practicing Advocates, they are not appearing before the trial Court, despite issuance of summons. It is also stated that they are not receiving the summons issued by the trial Court.

5.The Police is directed to furnish to the Court the address of Sivashanmugam [LW.1] and Kalpana [L.W.2] and the trial Court is directed to send the summons by registered post directly to the address. If they do not appear to give evidence, the trial Court is directed to proceed further with trial in accordance with law and dispose of C.C.No.160 of 2012 within a period of six months from the date of receipt of a copy of this order, provided the petitioners Co-operate by cross-examining the witnesses on the same day they are



examined in Chief.

With the above direction, this petition is closed."

8. On instructions, the learned Additional Public Prosecutor submitted that the prosecution has examined all their witnesses and the matter is posted to 13.08.2018. Therefore, this petition is dismissed with a direction to the trial Court to complete the trial in C.C.No.160 of 2012 expeditiously. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate, Palacode,
Dharmapuri District.

2.The Inspector of Police,
Palacode Police Station,
Dharmapuri District.

3.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.10865 of 2018

GJII(CO)
GSP(16/08/2018)