

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.10991 of 2018
and
Crl.M.P.Nos.5661 and 5662 of 2018

Rajesh Kumar ... Petitioner

Vs

Shanthikumar ... Respondent

Prayer:- Criminal Original Petition filed under Section 407 Cr.P.C., to withdraw the case in C.C.No.52 of 2010 on the file of Judicial Magistrate Court No-I, Mannargudi and transfer the same to the file of Judicial Magistrate No.I, Thanjavur.

For Petitioner : Mr.A.Anish

ORDER

The Criminal Original Petition has been filed to withdraw the case in C.C.No.52 of 2010 on the file of the Judicial Magistrate Court No-I, Mannargudi and transfer the same to the file of Judicial Magistrate Court No.I, Thanjavur.

2.For the sake of convenience, the petitioner and the respondent are referred to as the accused and the complainant respectively.

3. The complainant has initiated a prosecution in C.C.No.52 of 2010 before the learned Judicial Magistrate No.I, Mannargudi under Section 138 of the Negotiable Instruments Act 1881, against the accused. The complainant engaged an advocate by name Mr.Panchamurthy to represent him.

4. It is the case of the accused that he engaged an advocate by name Duraiveeraiyan to defend him. While so, the said Mr.Duraiveeraiyan, who was engaged by the accused has started appearing for the complainant and that he has also filed an application under Section 256 Cr.P.C. for dispensing with the personal appearance of the complainant before the trial Court. Under such circumstances, the accused has filed the present application to transfer the case from the file of the Judicial Magistrate Court No.I, Mannargudi to another Court.

5. The learned counsel for the accused submitted that the learned Judicial Magistrate No.1, Mannargudi has not applied his mind while entertaining the application filed under Section 256 Cr.P.C. by Duraiveeraiyan. Hence, the learned counsel submitted that the case may be transferred out of the Court of Judicial Magistrate No.1, Mannargudi.

6. I am unable to persuade myself to agree with the submission made by the learned counsel for the accused because the accused can change his advocate and approach the Bar Council for necessary action. Petitions under Sections 256 and 317 Cr.P.C. are filed regularly during trial and it will be impossible for any Magistrate to find out, who has filed the vakalat especially in a trial Court where there is enormous docket explosion. On that ground alone, the transfer cannot be effected.

7. Hence, this petition is devoid of merits and the same is dismissed. Consequently, connected Crl. Miscellaneous Petitions are closed.

11.04.2018

Index :Yes/No
Internet:Yes/No
Speaking/Non-speaking

P.N.PRAKASH,J

cla

To

1. The Judicial Magistrate No-I, Mannargudi
2. The Judicial Magistrate No.I, Thanjavur.
3. The Public Prosecutor,
High Court, Madras.



Crl.OP No.10991 of 2018
and Crl.M.P.Nos.5661 & 5662 of 2018

WEB COPY

11.04.2018