

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2018

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.11904 of 2018

and Crl.M.P.No.6283 of 2018

1.Ramiahah
2.Subbiah
3.Neelamegam
4.Indirani
5.Veeramani
6.Malarkodi

... Petitioners

vs.

1.Dhanam

2.State of Tamil Nadu
Rep. by its Deputy Superintendent
of Police
CBCID, Perambalur.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C. to withdraw Crl.M.P.No.490 of 2017 in Spl.S.C.No.3 of 2017 in Cr.No.1 of 2015 on the file of the Principal District and Sessions Court, Perambalur and transfer the same to any other competent courts except Perambalur and Ariyalur District.

For petitioners : Mr.R.Chandrasekaran

For R2

Mrs.Kritika Kamal, P.

Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to withdraw Crl.M.P.No.490 of 2017 in Spl.S.C.No.3 of 2017 in Cr.No.1 of 2015 on the file of the Principal District and Sessions Court, Perambalur and transfer the same to any other competent Court except in Perambalur and Ariyalur District.

2. Notice was sent to the first respondent/de facto complainant; private notice has been served on the de facto complainant and proof of service has been filed. However, there

is no representation for the first respondent/de facto complainant.

3. One Vasuki committed suicide on 30.06.2012, pursuant to which, a case in Kunnam Police Station Cr.No.299 of 2012 was registered under Section 174 Cr.P.C. On account of public agitation, the case was transferred from the file of Kunnam Police Station to the CBCID and was registered as Cr.No.1 of 2015. The CBCID have completed the investigation and have filed a charge sheet in Spl.S.C.No.3 of 2017 before the Principal District and Sessions Judge (Special Court for SC/ST cases), Perambalur, against the petitioners herein for the offences under Sections 147, 348, 294(b), 323, 325, 355, 354, 114, 166, 167, 218, 506(i), 306, 201 IPC r/w Section 3(1)(x), 3(1)(xi), 3(2)(v) of the SC/ST Act. The first accused is a local panchayat President and the other accused are police officers.

4. It is alleged that the police had taken the deceased Vasuki for interrogation in connection with a case, and after her release, she committed suicide and it is alleged that she was driven to the extent of committing suicide due to the harassment of the accused. While so, the accused have filed the present petition for transfer of the trial from out of Perambalur, since the case had generated so much of public ire and adverse publicity that the accused will not get fair trial. The accused have also filed an affidavit, wherein, it is stated as follows:

"9. I submit that the trial of the above case is taken up by the lower court. It is pertinent to note that every time of trial, the counsel - Mr.Valluvan Nambi who is appearing on the side of Dhanam - complainant/respondent is repeatedly making untenable allegations against the Public Prosecutor who is appearing on the prosecution side. Further, he is evincing very keen interest in changing the Public Prosecutors who are appointed to defend the Govt. side. In fact, he instigates the Tmt.Dhanam-complainant/respondent herein to file petitions frequently to change the Public Prosecutor who is appointed to handle the above trial in the lower court for the reasons best known to him.

10. I submit that similarly, various allegations were made against the present Public Prosecutor who is appointed to look after the trial case being conducted in the lower court. The counter affidavit filed in Spl.S.C.No.3 of 2017 in Cr.M.P.No.490 of 2017 would very clearly reveal foul plays that are being played by the

counsel of Tmt.Dhanam-complainant/respondent herein in the trial case. In fact, many more allegations were levelled by the present Public Prosecutor of the present criminal case against the counsel of Tmt.Dhanam-complainant/respondent."

5. In paragraph 23 of the affidavit, the accused have stated as follows:

"23. I submit that it is very clear that we have no prejudice against the Presiding Officer of the Sessions Court, Perambalur. But, they raise only objections over the Counsel for Tmt.Dhanam-Complainant/Respondent, who is influencing the Counsel who are appearing on our side as well as Public Prosecutors who are appearing on the side of Government."

6. Ramiah [A1] has filed an affidavit in support of the transfer application. Thus, the grievance of the accused is not against the Presiding Officer, but the vitiated atmosphere in which they are required to face the trial in Perambalur District.

7. Under such circumstances, this Court directs the transfer of Special S.C.No.3 of 2017 from the file of the Principal District and Sessions Judge (Special Court for SC/ST Act cases) to the file of the Special Court for SC/ST Act cases, Trichy. The Special Judge, Perambalur is directed to send all the original records, including the material objects, within a period of four weeks from the date of receipt of a copy of this order, to the Special Court for SC/ST Act cases, Trichy. The petitioners/accused shall be bound over by the Special Judge for SC/ST Act cases, Perambalur, to appear before the Special Court for SC/ST Act cases, Trichy on a given date. Accordingly, the petitioners/accused shall appear before the Special Court for SC/ST Act cases, Trichy, on the said date.

Accordingly, this petition is ordered. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Superintendent of Police
CBCID, Perambalur.

2.The Special Judge,
Principal District and Sessions Court,
Perambalur.

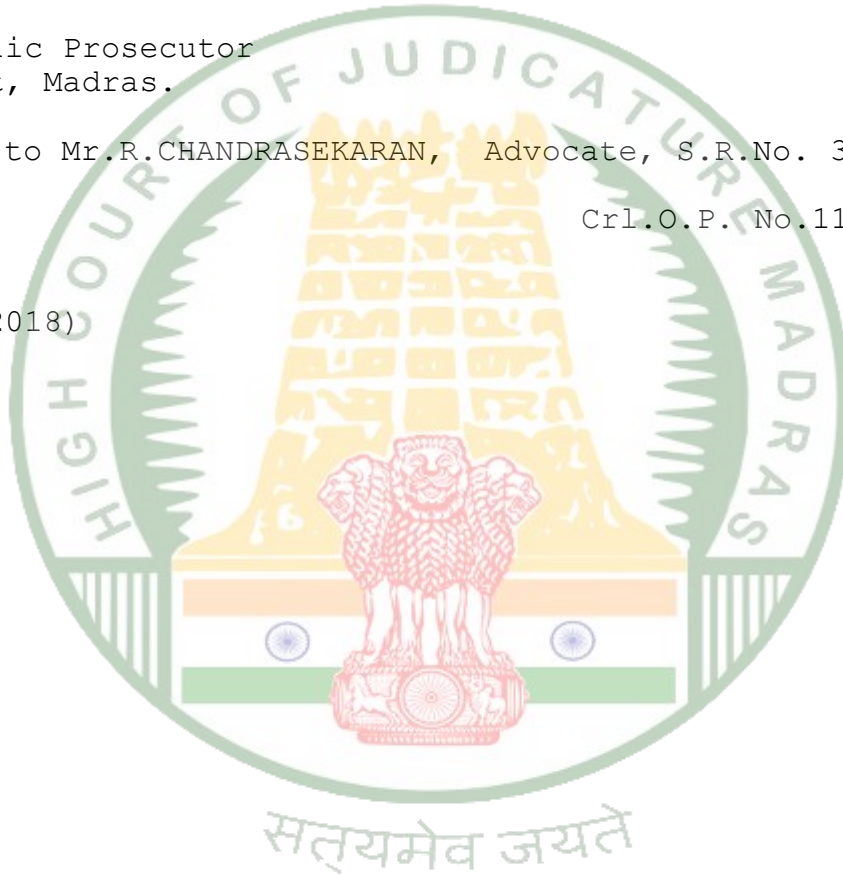
3.The Principal District and Sessions Judge,
The Special Court for SC/ST Act cases,
Trichy.

4.The Public Prosecutor
High Court, Madras.

+1cc to Mr.R.CHANDRASEKARAN, Advocate, S.R.No. 38472

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TR(29/06/2018)



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