

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.13168 to 13171 of 2014

S.Ramalingam ... Petitioner/Accused in all Crl.O.Ps

Vs.

S.Venugopal ..Respondent/Complainant
in Crl.O.P.No.13168/2014

R.Venkatesh ..Respondent/Complainant
in Crl.O.P.No.13169/2014

L.Jayanna ..Respondent/Complainant
in Crl.O.P.No.13170/2014

P.R.Nagarajan ..Respondent/Complainant
in Crl.O.P.No.13171/2014

COMMON PRAYER: These Criminal Original Petition have been filed under Section 407 of Criminal Procedure Code, to transfer the case in S.T.C.Nos.2 of 2013, 186, 285 and 187 of 2012 respectively on the file of Judicial Magistrate (FTC) Hosur, to some other Judicial Magistrate at Dharmapuri.

For Petitioner in Crl.O.Ps : Mr.R.Sankarasubbu
(in All Cases)

For Respondent in
Crl.O.P.No.13168 & 13171/2014 : Mr.K.Elangovan

For Respondent in
Crl.O.P.No.13169 & 13170/2014 : Mr.A.Balamurugan

COMMON ORDER

These petitions have been filed seeking for transfer of proceedings, pending before the learned Judicial Magistrate (FTC), Hosur.

2.The petitioner is facing trial before the Court below for an offence under Section 138 of Negotiable Instruments Act. The

proceedings were initiated in the year 2013. These cases reached the stage of trial and PW1 was also examined. Thereafter, the petitioner filed a petition to recall PW1 and the same was also dismissed. Subsequently, the petitioner filed a revision petition before the learned Additional Session Judge, Hosur, challenging the dismissal of the petition under Section 311 of Cr.P.C. This petition has been disposed of as not maintainable.

3.The learned counsel for the petitioner would submit that the learned trial Magistrate is prejudiced and is not giving sufficient opportunity to the petitioner to conduct the case. The learned counsel would further submit that the petitioner is aged more than 70 years and therefore, the petitioner is facing ailments and the Court below is not even taking that into consideration.

4.The learned counsel for the respondent would submit that the case is at the stage of final hearing and at this stage, these petitions have been filed seeking for transfer of the proceedings. The learned counsel would further submit that the petition has been filed only with a view to drag on the proceedings.

5.This Court considered the submissions made on either side.

6.The ground with regard to the prejudice on the part of the Magistrate, is no longer alive, in view of the fact that, the Magistrate, who was functioning in the year 2014, is no more there in the concerned Court. The second ground raised by the petitioner is that he should be given sufficient opportunity to conduct the trial and the same has been denied by virtue of dismissal of the application filed by him under Section 311 of Cr.P.C. If an order has been passed under Section 311 of Cr.P.C. and thereby denied the petitioner an opportunity to recall and cross examine PW1, the petitioner ought to have filed an appropriate petition before this Court, challenging the same. The petitioner has not done so in this case. Therefore, the petitioner cannot have any complaint about the denial of opportunity.

7.In so far as the ground of physical ailment is concerned, the petitioner can always be represented by a counsel and an appropriate application can be filed before the Court below to dispense with his appearance during the date of hearing.

8.This Court is not able to find any ground for transfer of proceedings. The complaint is of the year 2013 and therefore, necessary direction will have to be given to the Court below to complete the proceedings.

9.This Criminal Original Petition is disposed of with a direction to complete the proceedings within a period of two months from the date of receipt of copy of this order.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpl

To

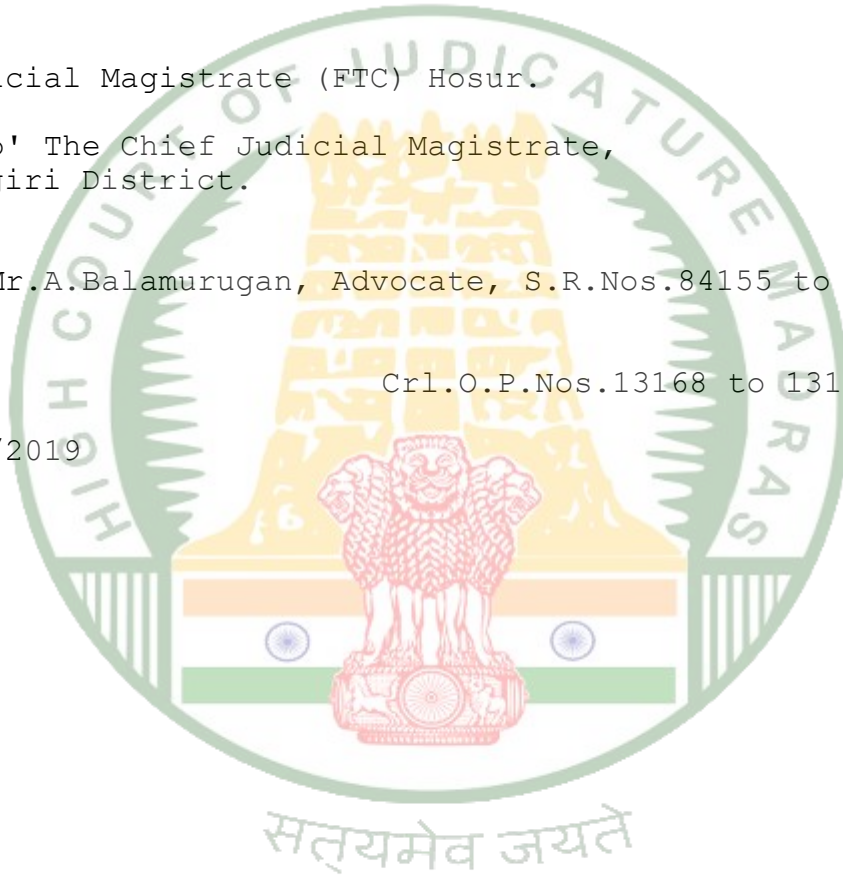
1.The Judicial Magistrate (FTC) Hosur.

2.Do -thro' The Chief Judicial Magistrate,
Krishnagiri District.

+4ccs to Mr.A.Balamurugan, Advocate, S.R.Nos.84155 to 84158.

CrI.O.P.Nos.13168 to 13171 of 2014

rrs 03/01/2019



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