

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.17472 of 2018

P.Ramalingam

.. Petitioner

Vs

S.Prabu

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to issue direction to withdraw the case in C.C.72 of 2016 on the file of District Munsif cum Judicial Magistrate, Uthiramerur and transfer the same to the file of Judicial Magistrate, Tambaram.

For Petitioner : Mr.M.Arun

O R D E R

This Criminal Original Petition has been filed to issue a direction to transfer the C.C.No.72 of 2016 from the file of the District Munsif-cum-Judicial Magistrate Court, Uthiramerur to the file of Judicial Magistrate Court, Tambaram.

2.For the sake of convenience, the parties will be referred to as complainant and accused. The complainant has initiated a prosecution in C.C.No.72 of 2016 under Section 138 of Negotiable Instruments Act, 1881, and the same is pending on the file of the District Munsif-cum-Judicial Magistrate, Uthiramerur. It is the case of the accused that since there is a life threat to him from the complainant, he is unable to appear before the trial Court and contest the case. Therefore, the accused has filed the present petition for transfer.

3.Heard the learned counsel for the accused, who submitted that the accused was into real estate business and that a false case has been filed by the complainant. He also contended that the complainant is a very influential person in Uthiramerur and is frequently threatening the accused.

4. In the opinion of this Court, this cannot be a good reason to transfer the case from Uthiramerur to any other Court. However, to ensure that no harm befalls the accused, this Court issues the following directions :

- i. The accused shall engage an Advocate on special vakalat;
- ii. The accused shall surrender before the trial Court within two weeks from the date of receipt of a copy of this order and file an application under Section 436 Cr.P.C. and shall be released on bail on the same day, on he executing a bond for Rs.10,000/- with two solvent sureties;
- iii. The accused shall present before the trial Court to answer the question under Sections 251 Cr.P.C., 313 Cr.P.C. and on the date of judgment;
- iv. The accused shall give an undertaking that his counsel will cross-examine the witness when they are examined in-chief as held by the Supreme Court in Vinodh Kumar Vs State of Punjab reported in 2015[1] MLJ [Cr1] 288;
- v. The accused shall give an undertaking that he will not dispute his identity. Thereafter, the presence of the accused before the trial Court shall stand dispensed with, except for the hearing under Section 251, 313 Cr.P.C. and on the date of judgment;
- vi. If the accused adopts any dilatory tactics, the trial Court can insist for his presence by giving notice to the counsel appointed by the accused on special vakalat;
- vii. The trial Court is directed to complete the trial in C.C.No.72 of 2016 within six months from the date of receipt of a copy of this order, provided if there is no any legal impediment.
- viii. The accused shall give his mobile number and address to the trial Court.

With the above direction, this Criminal Original Petition is closed.

Sd/-

Assistant Registrar(audit)

//True Copy//

Sub Assistant Registrar

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To

1.The District Munsif-Cum-
Judicial Magistrate,
Uthiramerur.

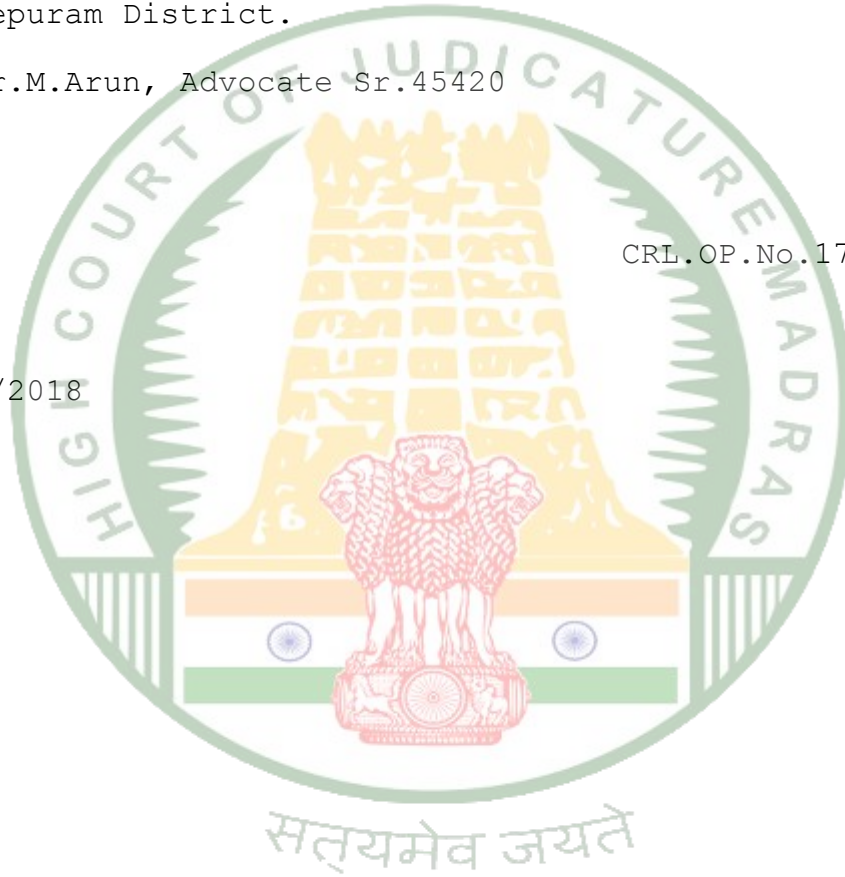
2.The Judicial Magistrate,
Tambaram.

3.-Do- Thro' The Chief Judicial Magistrate,
Kancheepuram District.

+1cc to Mr.M.Arun, Advocate Sr.45420

CRL.OP.No.17472 of 2018

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srg 31/07/2018



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