

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.18075 of 2018

and

Crl.MP.No.9426 & 9427 of 2018

R.Duraisamy

... Petitioner/Accused

Vs

V.C.Velmurugan

...Respondent/Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C., to transfer STC.No.468 of 2016 from the Judicial Magistrate No.I, Gobichettypalayam to any one of the Judicial Magistrate Courts (JM-I, II to III), Tirupur.

For Petitioner : Mr.N.Devarajan

O R D E R

This Criminal Original Petition has been filed to transfer STC.No.468 of 2016 from the Judicial Magistrate No.I, Gobichettypalayam to any one of the Judicial Magistrate Courts (JM-I to JM-III), Tirupur.

2. The prosecution in this case has a long history. It was in respect of a cheque, which was dishonoured on 03.06.2009, the prosecution was initiated in STC.No.1073 of 2009 before the Judicial Magistrate No.I, Gobichettypalayam under Section 138 of the Negotiable Instruments Act, 1881, against the petitioner. The case travelled from the Judicial Magistrate Court No.I, Gobichettypalayam to the Judicial Magistrate Court No.I, Tiruppur, pursuant to the judgment of the Supreme Court in Dashrath Rupsingh Rathod Vs. State of Maharashtra ([2014] 9 SCC 129). After the NI Act was amended by the Parliament, the case once again travelled from the Judicial Magistrate Court No.I, Tiruppur, to Judicial Magistrate Court No.I, Gobichettypalayam and was renumbered as STC.No.468 of 2016. It is the contention of the petitioner that he is 80 years old and that there is no progress in the trial till date.

3. Heard Mr.N.Devarajan, learned counsel for the petitioner/accused who submitted that the petitioner hails from

Tiruppur and therefore, he finds it very difficult to travel all the way to Gobichettipalayam for the trial and hence, the petitioner/accused filed the present petition for transferring the case to the Judicial Magistrate Court No.I, Tirupur.

4. In the opinion of this Court, no useful purpose will be served if once again the case is transferred from the Judicial Magistrate Court No.I, Gobichettipalayam to the Judicial Magistrate No.I, Tirupur, because, the witnesses will have to come all the way to Tirupur for trial and that will further prolong the trial.

5. Under such circumstances, this Court directs the petitioner to appear before the trial Court and execute a bond for Rs.10,000/- without sureties under Section 88 Cr.P.C. The petitioner shall engage an advocate on special Vakalat. The petitioner shall appear before the trial Court for questioning under Section 251 Cr.P.C., at the time of questioning under Section 313 Cr.P.C. and at the time of passing judgment. For the other hearings, the petitioner shall file a petition before the trial Court under Section 317 Cr.P.C., giving an undertaking that he will not dispute his identity and the same shall be considered and the presence of the petitioner/accused shall be dispensed with. The petitioner shall give an undertaking that his counsel will cross-examine the prosecution witnesses on the day they are examined-in-chief, as held by the Supreme Court in Vinod Kumar vs. State of Punjab [2015(1) MLJ (Cr1) 288]. If the accused adopts any dilatory tactics, it is open to the trial Court to issue notice to his counsel on special Vakalat and insist upon his presence and remand him to custody as laid down by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319]. If the accused absconds, the trial Court shall direct registration of an FIR against him under Section 229-A IPC. The trial Court is directed to complete the trial in STC.No.468 of 2016 within a period of three months from the date of receipt of a copy of this order.

With the above direction, this petition is closed. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Gobichettypalayam.

+1cc to Mr.N.Devarajan, advocate sr.no.47014

Cr1.OP.No.18075 of 2018

nr 23/07/2018



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