

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.29938 of 2010

and

M.P.Nos.1 & 2 of 2010

Kalyana Sundaram,
S/o.T.Kunjithapatham.

....Petitioner/Accused

Vs.

Raju
S/o.Varathan.

.... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to transfer the case in C.C.No.10 of 2010 on the file of the Judicial Magistrate Court, Madurantakam, Kancheepuram District to any Judicial Magistrate Court within the limit of Chennai.

For Petitioner : Mr.N.Raja Senthoo Pandian

For Respondent : Not ready in notice

O R D E R

This Criminal Original Petition is filed to transfer the case in C.C.No.10 of 2010 on the file of the Judicial Magistrate Court, Madurantakam, Kancheepuram District to any of the Metropolitan Magistrate Court within the limit of Chennai.

2.The petitioner, who is an accused in C.C.No.10 of 2010 has filed this transfer petition.

3.The contention of the learned counsel for the petitioner is that the petitioner is a permanent resident residing at Ponnambalam Colony, Ponnambalam Salai, K.K. Nagar, Chennai - 600 078 and his wife, namely, Mrs.Kasturi Kalyanasundaram is taking treatment for breast cancer in K.M. Nursing Home, K.K.Nagar, Chennai - 600 078 and for the above said treatment he has to accompany his wife for various tests and therapies and the petitioner has to assist his wife, which is indispensable.

Hence, due to the above constraint, he is unable to attend the Trial Court at Madurantakam and he had filed the above transfer petition.

4.The case in C.C.No.10 of 2010 is filed under Section 138 of the Negotiable Instruments Act, which has been tried as a summons case. The offence filed under Section 138 of the Negotiable Instruments Act is being a technical offence no identity of the petitioner is required in all the hearings.

5.Persons need not be insisted to be present in the cases filed under Section 138 of the Negotiable Instruments Act. In such circumstances, this Court feels that the transfer petition has no merit for consideration. The petitioner has to file an appropriate petition seeking his dispensation for the impediment above mentioned, without stalling the trial proceedings for his absence.

6.It is found that the trial proceedings has been pending from the year 2010, due to the pendency of the above petition, since a summons case has been kept pending for nearly eight years, without any progress. The Trial Court is directed to complete the trial and to dispose the case, within a period of three months from the date of receipt of a copy of this order.

7.With this observation, this Criminal Original Petition stands disposed off. Consequently, the connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate,
Madurantakam,
Kancheepuram District.

2.The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.29938 of 2010

SP(06/08/2018)