

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.29961 of 2018

1.M/s.Nathan's Foundation Pvt. Ltd.,
Rep. by its Managing Director
K.V.Sankaralingam,
Having office at
No.18, Arulambal street,
T.Nagar, Chennai - 600 017.

2.K.V.Sankaralingam Petitioners
Vs.

1.Thyagarajan,
Proprietor
M/s.Sowbarnika Garments.

2.The Inspector of Police,
City Crime Branch,
Coimbatore City.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to pass an order for direction to withdraw the C.C.No.304 of 2015 filed by the 1st respondent pending on the file of the Fast Track Court No.1, Coimbatore and to transfer the same to the Judicial Magistrate Court No.V, Coimbatore, wherein the charge sheet filed by the 2nd respondent in Crime No.69 of 2012 is pending and both the matter tried together as this Hon'ble Court may deem fit.

For Petitioners :Mr.A.Vivekanandhan

For Respondents :Mr.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking for transfer the complaint in C.C.No.304 of 2015, from the file of the Fast Track Court No.I, Coimbatore to the file of the Judicial Magistrate No.V, Coimbatore.

2. The learned counsel for the petitioners would submit that the first respondent has filed the complaint against the petitioners under Section 138 of Negotiable Instruments Act. The petitioners have taken a stand that the respondents have misused the cheque given by the petitioners and have committed an offence of cheating and forgery and therefore, the petitioners gave a complaint to the Central Crime Branch at Coimbatore and the same was registered in Crime No.69 of 2012. Subsequently, on the completion of investigation, a final report has also been filed before the Judicial Magistrate No.V, Coimbatore on 18.12.2015.

3. The learned counsel for the petitioners submitted that the complaint pending under Section 138 of Negotiable Instruments Act and the final report filed before the Judicial Magistrate No.V, Coimbatore must be tried together. Therefore, this petition has been filed seeking for transfer of the 138 complaint pending in C.C.No.304 of 2015 to the file of the Judicial Magistrate No.V, Coimbatore.

4. This Court is of the considered view that both the Courts are within the same Sessions Division and the petitioner should move a petition for transfer before the Principal Sessions Court, Coimbatore, under Section 408 Cr.P.C. The petitioners ought not to have approached this Court directly.

5. In the facts and circumstances of the case, this Criminal Original Petition is dismissed and the petitioner is given liberty to file an appropriate petition seeking for transfer before the Principal District and Sessions Court, Coimbatore, under Section 408 Cr.P.C and the same shall be dealt with by the Sessions Court in accordance with law.

s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

lpp/vsa

To

1.The Fast Track Court No.1,
Coimbatore.

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2.The Inspector of Police,
City Crime Branch,
Coimbatore City.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.A.Vivekanandhan, Advocate sr 88696

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SP(08/01/2019)



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