

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2018

CORAM

THE HON'BLE MR. JUSTICE R.MAHADEVAN
and
THE HON'BLE MR. JUSTICE P.D.AUDIKESAVALU

Criminal O.P. No. 24049 of 2018
and
Crl.MP.No.13581 of 2018

M.Vijaya

...Petitioner

Vs.

1.The Inspector of Police
Selaiyur Police Station
Tambaram, Chennai - 600 073
Tamil Nadu.

2.Srinivasan @ Seetharaman
S/o.Govindarajan
No.19/23, Ganapathi Colony
East Tambaram, Chennai - 600 059.

3.Bava @ Chinnabava
S/o. Ekambaram
No.5/13, Lal Bhadur Sastri Street
Gandhi Nagar, East Tambaram
Chennai - 600 059.

.... Respondents

Prayer : This Criminal Original Petition filed under Section 407(i)(c) r/w 482 Cr.P.C., to transfer the case in C.C. No. 21 of 2017 pending trial on the file of the learned Additional Chief Judicial Magistrate, Kumbakonam to the file of the Judicial Magistrate Court, Tambaram.

For Petitioner : Mr.S.I.Muthiah

For Respondents : M/s.Kirthika Kamal
Govt. Advocate (Criminal Side)

O R D E R

The petitioner has come up with this writ petition to transfer the case in C.C. No. 21 of 2017 on the file of the

Additional Chief Judicial Magistrate, Kumbakonam to the file of the Judicial Magistrate, Tambaram.

2.It is the case of the petitioner that she lodged a complaint on 08.12.2014 before the first respondent, requesting to retrieve the idol of the Goddess Vempuli Amman and the said complaint was subsequently registered as Crime No.1748 of 2016 by the first respondent. After investigation, the first respondent filed a charge sheet before the Judicial Magistrate, Tambaram. While so, pursuant to the order of this Court dated 21.07.2017 passed in Crl.OP.Nos.8690 and 12060 of 2017, the said criminal case was transferred to the file of the Additional Chief Judicial Magistrate, Kumbakonam and it was renumbered as CC No.21 of 2017. It is the further case of the petitioner that while the second respondent, who is one of the accused in the said case, claiming ownership of the temple land, from which, the idol was alleged to have been stolen, filed a suit in O.S.No.222 of 2014 on the file of the District Munsif Court, Tambaram, for the relief of injunction, the HR&CE Department through its Executive Officer filed a suit in O.S.No.85 of 2016 before the same District Munsif Court, Tambaram, for declaration and permanent injunction and both the suits are pending trial. According to the petitioner, she being the priest of the said temple, has to perform daily poojas and rituals of the same. Further, she is having school going children. Hence, she finds it difficult to attend the court proceedings of the said criminal case. Therefore, the petitioner is before this Court with the present petition.

3.The learned counsel for the petitioner submitted that if the case in C.C. No.21 of 2017 pending on the file of the Additional Chief Judicial Magistrate Court, Kumbakonam is transferred to the Judicial Magistrate, Tambaram, it would be convenient to the petitioner as well as the other people, who are interested in the management and administration of the said temple, so as to get along the trial effectively, along with other cases. Therefore, he sought appropriate direction in this regard.

4.The learned Government Advocate (Crl.Side) appearing for the respondent has stoutly opposed the relief sought in this petition. According to her, as per the specific direction of this Court vide order dated 21.07.2017 in Criminal O.P.Nos.8690 and 12060 of 2017, the criminal case in CC No.21 of 2017 relating to theft of idol, was transferred to the file of the Additional Chief Judicial Magistrate, Kumbakonam and hence, it may not be transferred to any other Court, for the convenience of any of the parties.

5.Heard both sides and perused the records.

6.This Court, in the order dated 21.07.2017 in Criminal O.P.Nos.8690 and 12060 of 2017, has issued the following direction, among other directions:

"The cases pending on the file of various courts in the State of Tamil Nadu prosecuted by the Idol wing are hereby transferred to the file of the learned Additional Chief Judicial Magistrate, Kumbakonam for effective and speedy disposal of the cases, on day today basis."

Pursuant to the same, the case in CC No.21 of 2017 was transferred to the file of the Additional Chief Judicial Magistrate, Kumbakonam, as it relates to the theft of idol of the Goddess Vempuli Amman and the same is pending trial. At this stage, it cannot be transferred to some other Court to suit the convenience of either of the parties. Hence, this Court finds no ground, much less valid ground to entertain this petition.

7.Accordingly, this Criminal Original Petition is dismissed in limine. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

maya/rk

To

- 1.The Additional Chief Judicial Magistrate, Kumbakonam
2. The Inspector of Police, Selaiyur Police Station, Tambaram, Chennai - 600073.
3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.*, Advocate SR.No.

+1cc to Mr.*, Advocate SR.No.

+1cc to the Public prosecutor, High Court, Madras SR.No.70880

Criminal O.P. No. 24049 of 2018

MP (CO)

GMV (01/11/2018)