

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.No.23483 of 2018
and CRL.M.P.No.13175 of 2018

1.R.Muthuvel
2.A.Chandrasekar @ Chandru
3.M.Abdul Rahim
4.M.Zaheer Hussain
5.A.Habibullah
6.P.Liyakth Ali
7.C.Sigamani
8.A.Sathick
9.N.Sivasankaran
10.T.Kumaravel
11.P.Sathiyaraj
12.A.Arumugam Petitioners

Vs.

The Union of India State
Rep. by Inspector of Police,
R.P.F. post,
Villupuram Junction. Respondent

Prayer: Criminal Original Petition filed under Section 407 of Cr.P.C., praying to transfer the proceedings in C.C.No.116 of 2005 on the file of the learned Judicial Magistrate No.1, Cuddalore to any other Judicial Magistrate's Court either in the same district or in any other district.

For petitioners : Mr.N.Suresh

For respondent : Ms.M.Prabhavathi,
Additional Public Prosecutor

O R D E R

The petitioners are Constables in R.P.F under suspension and are facing prosecution in C.C.No.116 of 2005 before the Judicial Magistrate No.1, Cuddalore for various offences under the RP (UP) Act, 1966. From 2005-2018, trial has been kept pending for reasons not known to this Court. While so, the petitioners have

given a complaint to the Registrar (Vigilance) against the Trial Judge, alleging that one M.Ganesan, the Court orderly approached the first petitioner and the other accused and demanded Rs.2,00,000/- as bribe on behalf of the Trial Judge. After having given such a complaint to the Registrar (Vigilance), the petitioners are before this Court seeking transfer of the case.

2.Heard Mr.N.Suresh, learned counsel for the petitioners and Ms.M.Prabhavathi, learned Additional Public Prosecutor for the respondent.

3.The learned counsel for the petitioners submitted that the Magistrate was found talking very cordially to the said Police Constable, M.Ganesan and that the said Police Constable approached the accused and demanded bribe on behalf of the Magistrate. He further contended that the accused having given a written complaint to the Registrar (Vigilance), it will be a source of embarrassment for the accused to face trial before the said Magistrate.

4.Per contra, the learned Additional Public Prosecutor refuted the contention.

5.This Court gave its anxious consideration to the rival submissions.

6.On a perusal of the affidavit filed by the petitioners and the complaint given by them to the Registrar (Vigilance), it is seen that they have not even said the date on which the said Police Constable had demanded bribe from the accused on behalf of the Magistrate. Just because a Judicial Officer is cordially talking to the Court orderly, that cannot lead to the inference that the Court orderly is the broker for the Judicial Officer. If such standards are fixed, even Superior Court Judges will not be safe from such allegations of corruption. The accused by giving such a frivolous complaint to the Registrar (Vigilance), cannot now plead that it will be a source of embarrassment for them to face trial before the said Magistrate. If this is countenanced, a new transfer juris prudence will develop in the system, whereby it will be convenient for the accused to shoot of a frivolous complaint to the Registrar (Vigilance) and plead for transfer of criminal case which the accused believes would go against him. This is akin to an accused, convicted for the murder of his parents, pleading for mercy on the ground that he is an orphan. If such transfer applications are entertained, the morale of the Magistracy will be ruined. This Court cannot be a party to such a ruination.

7.In the result, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gsi/gsa
To

1. The Judicial Magistrate No.1,
Cuddalore.
2. The Inspector of Police,
Union of India,
R.P.F. post,
Villupuram Junction.
3. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

+lcc to M/S.N.Suresh, Advocate Sr.68976

सत्यमेव जयते

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srg 30/10/2018

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