

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2018

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.23644 of 2018 &
CrI.M.P.Nos.13292 & 13296 of 2018

Mrs. Jayanthi ..Petitioner

Vs.

Mr. Senthilkumar ..Respondent

Criminal Original Petition filed under Section 407 Cr.P.C., seeking to withdraw C.C.No. 285/2016 on the file of Judicial Magistrate (Fast Track Court) at Tiruppur and transfer the same to the Judicial Magistrate Court at Perambalur.

For petitioner: Mr. Myilsamy K.

O R D E R

The petitioner is facing prosecution before the Judicial Magistrate, Fast Track Court, Tiruppur in C.C.No.285/2016 under Section 138 of Negotiable Instruments Act. While so, the petitioner filed present application for transfer.

2. Heard Mr.Myilsamy K, the learned counsel for the petitioner who submitted that petitioner is a lady and that she is a resident of Kaikalathur Village in Perambalur District, but where as the prosecution is in Tiruppur District and that on account of physical ailments, she is not able to attend the hearings there. He also contended that the complainant is also a resident of Kaikalathur Village and therefore it will be convenient for both of them to conduct the case in Perambalur District.

3.However, on perusal of the records, the impugned cheque has been deposited in Canara Bank, Tiruppur Branch by the complainant and the same was returned on the ground "Insufficient Funds". The complainant issued a statutory notice,

for which the accused has not even replied. The prosecution is pending before the Fast Track Court, Tiruppur from the year 2016 onwards.

4. Under such circumstances, it cannot be appropriate for this Court to transfer the case from Tiruppur District, however, this Court is of the view that interest of justice will be served if the presence of the petitioner before the Trial Court is dispensed with on certain conditions:

a) The petitioner shall appear before the Trial Court for questioning under Sections 251, 313 Cr.P.C and on the date of judgement.

b) The petitioner shall engage an advocate on special vakalat and give an undertaking that she will not dispute the identity and that the counsel appointed by her will cross examine the witnesses on the day as held by the Hon'ble Supreme Court in its order dated 23.09.2014 in Criminal Appeal No.554 of 2012 (Vinod Kumar Vs. State of Punjab) and not to adopt any dilatory tactics.

5. On such special vakalat being filed, the presence of the petitioner before the Trial Court shall stand dispensed with. If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist upon her presence. The Trial Court is directed to complete the trial in CC.No.285 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, the connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Fast Track Court,
Tiruppur.

2. The Public Prosecutor
High Court, Madras
Chennai 600 104.

+1cc to Mr.K.Myilsamy, Advocate, S.R.No.69320

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GSP(17/10/2018)