

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.24034 of 2018

A.Kalaivani

Petitioner

Vs

The State rep. By its
The Inspector of Police,
Velipalayam Police Station,
Nagapattinam District.

Respondent

PRAYER: Criminal Original Petition filed under Section 407 Cr.P.C., praying to transfer the S.C.No.84 of 2017 pending on the file of the District & Sessions Judge, Nagapattinam to any other District Sessions Court.

For Petitioner : Mr.Nandagopal.D
For Respondent : Ms.M.Prabhavathi,
Additional Public Prosecutor

O R D E R

The petitioner is the de-facto complainant in S.C.No.84 of 2017 that is pending on the file of the District & Sessions Court, Nagapattinam against one Tangasamy for the offence under Section 302 I.P.C.

2.It is the case of the petitioner that Tangasamy is her brother-in-law and that he had murdered her husband. It is the further case of the petitioner that she was examined in chief as P.W.1 on 12.03.2018, but was not cross-examined by the accused. However, the accused and his henchmen are continuously sending out threats to the complainant. Therefore, the complainant is before this Court for transfer.

3.Heard the learned counsel for the de-facto complainant who reiterated the averments in the petition.

4.Per contra, the learned Additional Public Prosecutor submitted that the de-facto complainant has been examined as P.W.1, but however, she has not appeared before the Trial Court for cross-examination.

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

6.The fact remains that the alleged incident had taken place within the territorial jurisdiction of the Nagapattinam Sessions Court. All the witnesses are from that area. Therefore, if the case is transferred out of Nagapattinam, serious prejudice would be caused to the other prosecution witnesses. Therefore, this petition is closed with a further direction to the Superintendent of Police, Nagapattinam to enquire into the allegation of threat by the de-facto complainant and ensure that sufficient protection is given to her and to the other witnesses when they come to the Court for giving evidence. The learned Trial Judge shall also ensure that witnesses are not intimidated by the accused. If there is any threat to the witnesses, the accused can be remanded to custody under Section 309 Cr.P.C in the light of the law laid down by the Hon'ble Supreme Court in State of Uttarpradesh Vs Shambhu Nath Singh JT 2001(4) SC 319. The Trial Court shall ensure that the accused cross-examines the prosecution witnesses on the day they are examined in chief as directed by the Hon'ble Supreme Court in Vinodh Kumar Vs State of Punjab 2015(1) MLJ (Crl) 288. If the accused absconds, a fresh First Information Report can be registered against him under Section 229 A I.P.C.

With the above direction, this petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

gsa
To

- 1.The Inspector of Police,
The State of Tamil Nadu,
Velipalayam Police Station,
Nagapattinam District.
- 2.The Superintendent of Police,
Nagapattinam.
- 3.The District & Sessions Judge,
Nagapattinam.
- 4.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr. D. Nandagopal, Advocate Sr.70668

CRL.O.P.No.24034 of 2018