

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2018

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P.No.27498 of 2018
and
CrI.M.P.No.15859 of 2018

N.Karthikeyan

.. Petitioner

Vs

1. Inspector of Police,
Kilapazhavor Police Circle,
Ariyalur District.

2. Senthamizhselvan

3. Jayashree

4. Maharajan

.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to transfer the S.C.No.91 of 2017 on the file of the Learned Principal District Judge, Ariyalur to the file of some other District Judge, Tamil Nadu.

For Petitioner : Mr.A.Ganesh

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed seeking for a transfer of the case in S.C.No.91 of 2017, which is pending on the file of the Learned Principal District Judge, Ariyalur. The petitioner is the defacto complainant. Based on the complaint given by the petitioner, the respondent police have registered an FIR in Crime No.201 of 2015 for an offence under Section 306 of IPC. Thereafter, investigation was conducted and the final report was also filed and the same has been taken cognizance by the Court below. The charges have also been framed by the Court below for the offence under Section 306 of IPC. The trial is yet to commence in this case.

2. This petition for transfer has been filed on the ground that the Public Prosecutor who is conducting the case on behalf of the State is the Junior of the Counsel, who is going to conduct the case for the accused person. Therefore, there is an apprehension that there will be no fair trial since the Public Prosecutor will not be opposing his senior before the Court. That apart, there is also an apprehension that the counsel appearing for the accused persons will influence the Public Prosecutor since he is the junior of the counsel representing the accused.

3. It is seen that this transfer petition has been filed merely based on apprehension. The trial is yet to commence and only thereafter, it can be seen as to how the case is being conducted before the Court below by the Public Prosecutor. The transfer cannot be ordered on mere apprehension. Therefore, this Court is not in a position to entertain this petition at this stage.

4. However, liberty is granted to the petitioner to file an appropriate application before the Court below seeking for assisting the prosecution under Section 302 of Cr.P.C. The Court can take in to consideration the guidelines given by the Hon'ble Supreme Court of India in the judgment reported in 2016 (3) MWN (Cr.) 161 (SC) (Dhariwal Industries Ltd., Vs. Kishore Wadhwani and others. By doing this, the petitioner will atleast be in a position to assess the manner in which the trial is conducted in this case.

5. In view of the above direction, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

ssr/ub
To

1. The Inspector of Police,
Kilapazhavor Police Circle, Ariyalur District.

2. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.A.Ganesh, Advocate SR.No.80719

Cr1.O.P.No.27498 of 2018

CSL/30.11.2018