



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

Cr1.O.P. (MD) No.12339 of 2014

and

MP (MD) No.1 of 2014

Krishnammal

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Thoothukudi,
Thoothukudi District.
2. N.Somasundaram
The then Sub Inspector of Police,
Thalamuthu Nagar Police Station,
Tuticorin.
3. Jeyasekaran
The then Sub Inspector of Police,
Thalamuthu Nagar Police Station,
Tuticorin.
4. Josephraj
Gr.I Police Constable 1059,
Thalamuthu Nagar Police Station,
Tuticorin.
5. Pichiah
Gr.I.Police Constable 2128,
Thalamuthu Nagar Police Station,
Tuticorin.
6. Chellathurai
Gr.I.Police Constable 2209,
Thalamuthu Nagar Police Station,
Tuticorin.
7. Veerabagu
Gr.I.Police Constable 1980,
Thalamuthu Nagar Police Station,
Tuticorin.
8. Sivasubramanian,
Gr.I.Police Constable 1997,
Thalamuthu Nagar Police Station,
Tuticorin.



9. Subbaiah
Gr.I.Police Constable 1123,
Thalamuthu Nagar Police Station,
Tuticorin.

10. Rathinaswamy
Gr.I.Police Constable 1278,
Thalamuthu Nagar Police Station,
Tuticorin.

11. Balasubramanian
Gr.I.Police Constable 1154,
Thalamuthu Nagar Police Station,
Tuticorin.

12. Ramakrishnan
The then Sub Inspector of Police,
Thalamuthu Nagar Police Station,
Tuticorin.

... Respondents

Criminal Original Petition filed under Section 407 Cr.P.C to withdraw the Sessions Case No.223 of 2006 from the file of the Additional Sessions Judge No.I, Thoothukudi and transfer the same to the file of the Principal Sessions Judge, Tirunelveli.

For Petitioner	: Mrs.Maria Vinola for M/s.D.Geetha
For R1	: Mr.A.Robinson Government Advocate
For R2, R5, R6, R9 to 12	: Mr.A.Sivasubramanian
For R3, R4, R7, R8	: Mr.P.Samuel Gunasingh

O R D E R

This criminal original petition has been filed seeking to withdraw the Sessions Case No.223 of 2006 from the file of the Additional Sessions Judge No.I, Thoothukudi and transfer the same to the file of the Principal Sessions Judge, Tirunelveli.

2.The main allegation made in the petition is that the first respondent has not included one of the accused viz., Ramakrishnan, a former Sub Inspector of Police in S.C.No.223 of 2006, who had actively took part in the inhuman torture and illegal confinement and murder of the petitioner's husband. The respondents 2 to 11 herein/accused in S.C.No.223 of 2006 have also filed petitions under Sections 317 Cr.P.C. and enjoying the benefit available under the said provision. Further, without

<https://hcservices.ecourtts.gov.in/hcservices/impsecordr.htm> the said Ramakrishnan, the trial of the case was scheduled to be proceeded with. Hence, the petitioner has filed an



application under Section 301 Cr.P.C, seeking permission to engage the petitioner's private counsel to assist the prosecution. The said application was taken on file in Cr.M.P.No.270 of 2007 and it was allowed on 02.07.2007. The other two applications filed by the petitioner under Sections 193 r/w 319 and 216 Cr.P.C were dismissed on 30.07.2007. Challenging the above dismissal orders, the petitioner has preferred a revision in CrI.R.C(MD)No.653 of 2007 before this Court and this Court, allowed the revision on 18.03.2008 and directed the concerned Court to include the Sub Inspector of Police by name Ramakrishnan as one of the accused in S.C.No.223 of 2006. Despite the order passed by this Court, the said Ramakrishnan has not been added as an accused in the said case. Hence, this petition has been filed seeking to withdraw the Sessions Case No.223 of 2006 from the file of the Additional Sessions Judge No.I, Thoothukudi and transfer the same to the file of the Principal Sessions Judge, Tirunelveli.

3.The learned Government Advocate (CrI.Side) appearing for the first respondent submitted that pursuant to the order passed by this Court, the above said accused Ramakrishnan has already been arrayed as 11th accused in S.C.No.223 of 2006 and charges were also framed against him and therefore, the allegation made by the petitioner cannot be countenanced.

4.The said fact has not been disputed by the learned counsel appearing for the petitioner. Earlier, this Court, by the order dated 14.02.2018, called for a report from the I Additional District and Sessions Judge (FAC), Thoothukudi. Accordingly, report has been received, wherein, it is stated as follows:

".....On representation by the Additional Public Prosecutor, on perusal of records, it has been found that, the above said accused Ramakrishnan has not been included and charge also not framed against him. Hence, this Court stopped the trial proceedings and arrayed this accused as 11th accused in this case and issued summons to the 11th accused through the Revenue Divisional Officer, Thoothukudi/complainant for his appearance. The 11th accused also appeared before this Court on 02.07.2014 and on 11.07.2014, copy of the documents furnished to the accused under Section 207 Cr.P.C."

5.In the light of the submission made by the learned Government Advocate (CrI.Side) appearing for the first respondent and also in the light of the report submitted by the I Additional District and Sessions Judge (FAC), Thoothukudi, to the effect that the said Ramakrishnan has already been arrayed as 11th accused in the aforesaid Sessions Case No.223 of 2006, the apprehension of <https://hdservices.pcautisgov.in/services> that there will not be an impartial trial in the trial Court cannot be accepted and the said contention is liable to be rejected.



6. Accordingly, this Criminal Original Petition is dismissed. Consequently, MP(MD)No.1 of 2014 is closed.

Sd/-

Assistant Registrar(crl side)

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/True Copy/

Sub Assistant Registrar

To

1. The Revenue Divisional Officer,
Thoothukudi,
Thoothukudi District.
2. The Additional Sessions Judge No.I,
Thoothukudi.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Principal Sessions Judge,
Tirunelveli.

+1cc to M/s.D.Geetha, Advocate Sr.No.60036

+1cc to Mr.A.Sivasubramanian, Advocate Sr.No.59805

MJ

VB/SKN/RSK/SAR1/25.04.2018/4P/7C

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