



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2018

CORAM

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THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.(MD) Nos.12591, 12592 of 2015
and
M.P(MD).Nos.1, 1 of 2015

Crl.O.P.(MD) Nos.12591 of 2015

1.D.Sreejith
2.D.Danislas

..Petitioners/ Accused Nos.1 & 2

-Vs-

1.State represented by
The Inspector of Police,
Arumanai Police Station,
Arumanai,
Kanyakumari District.

... 1st Respondent/ Complainant

2.Satishkumar

... 2nd Respondent/ De facto
Complainant

Prayer: Criminal Original petition filed under Section 407 of Code of Criminal Procedure, to withdraw the case in C.C.No.198 of 2015 on the file of the learned Judicial Magistrate No.I, Kuzhithurai and transfer to any one of learned Judicial Magistrate Court, Tirunelveli.

Crl.O.P.(MD) Nos.12592 of 2015

D.Sreejith

..Petitioner/ Defacto complainant

-Vs-

1.State represented by
The Inspector of Police,
Arumanai Police Station,
Arumanai,
Kanyakumari District.

... 1st Respondent/ Complainant

2.Satishkumar

... 2nd Respondent/ 1st Accused

3.Bindhu

... 3rd Respondent/ 2nd Accused

Prayer: Criminal Original petition filed under Section 407 of Code of Criminal Procedure, to withdraw the case in C.C.No.209 of 2015 on the file of the learned Judicial Magistrate No.I, Kuzhithurai and transfer to any one of learned Judicial Magistrate Court, Tirunelveli.



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In both petitions

For Petitioners

For Respondents

:Mr.G.Thalaimutharasu for A.S.Vaigunth

:Mr.A.P.G.Ohm Chairma Prabhu

Government Advocate (Crl.side)

for R1

Mr.M.Subash Babu- R2

in CRL OP(MD)NO.12591/2015

For R2 & R3

in CRL OP(MD)NO.12592/2015

COMMON ORDER

Crl.O.P(MD).No.12591 of 2015 has been filed by the accused Nos.1 and 2 to transfer the case in C.C.No.198 of 2015 from the file of the learned Judicial Magistrate No.I, Kuzhithurai to any of the learned Judicial Magistrate Courts at Tirunelveli.

Crl.O.P(MD).No.12592 of 2015 has been filed by the defacto complainant to transfer the case in C.C.No.209 of 2015 from the file of the learned Judicial Magistrate No.I, Kuzhithurai to any one of the Judicial Magistrate Court at Tirunelveli.

2. The learned counsel for the petitioners has submitted that based on the complaint given by the petitioner namely, D.Sreejith, First Information Report has been registered and subsequently, a charge sheet was also filed and based on that, the case in C.C.No.209 of 2015 has been taken on file by the learned Judicial Magistrate No.1, Kuzhithurai. He further submitted that the second respondent in both the petitions namely, Satishkumar, gave a counter complaint and based on that, First Information Report was registered and charge sheet has also been filed and on that basis, the case in C.C.No.198 of 2015 has been taken on file by the learned Judicial Magistrate No.1, Kuzhithurai. He further submitted that since the second respondent herein, is an advocate and practising at Kuzhithurai, the Bar Association of Kuzhithurai has passed a resolution that no one should appear to defend the petitioners and hence, he requests to transfer both the cases to any of the Courts at Tirunelveli.

3.The learned counsel for the second respondent in Crl.O.P.No.12591 of 2017 and the respondents 2 and 3 in Crl.O.P(MD).No.12592 of 2015 has submitted that it is true that the second respondent, namely, Satishkumar is an advocate practising at Kuzhithurai, but, the Bar Association of Kuzhithurai has not passed any resolution as alleged by the petitioners and hence, he opposed to transfer the aforesaid cases to some other Court.

4.The learned Government Advocate (Crl.side) has not raised any serious objection.

5.Considering the fact that the second respondent, namely, Satishkumar is an advocate practising at Kuzhithurai, and also the



submission made by the learned counsel for the petitioner that the advocates, who are practising at Kuzhithurai, are not coming forward to defend the petitioners, this Court of the view that the aforesaid cases are to be transferred to some other Court.

6. In the result these petitions are allowed. The cases in C.C. Nos.198 of 2015 and 209 of 2015 are withdrawn from the file of the Judicial Magistrate No.I, Kuzhithurai and transferred to the Judicial Magistrate No.I, Nagercoil for disposal in accordance with law and the learned Judicial Magistrate No.1, Nagercoil is directed to dispose of the aforesaid cases, within a period of six months from the date of receipt of the records from the Judicial Magistrate No.1, Kuzhithurai. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I,
Kuzhithurai.

2.The Judicial Magistrate No.1,
Nagercoil.

3.The Inspector of Police,
Arumanai Police Station,
Arumanai,
Kanyakumari District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO M/S.M.SUBASH BABU, ADVOCATE, SR NO.53760

Cr1.O.P.(MD) Nos.12591, 12592 of 2015
07.03.2018

rmk

MS/SV-MMS/SAR-1/27.03.2018/3P.6C