



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

Crl.O.P.(MD) No.212 of 2018
and
Crl.M.P.(MD) No.63 of 2018

R.Ganesan

... Petitioner/P.W.2

Vs.

1.The State represented by
The Inspector of Police,
All Women Police Station,
Uthamapalayam,
Theni District.
(Crime No.10 of 2013)

... 1st Respondent/Complainant

2.Vimalan

3.Dharmaraj

4.Thilagarani

5.Logendran

... Respondents 2 to 5/Accused No. 1 to 4

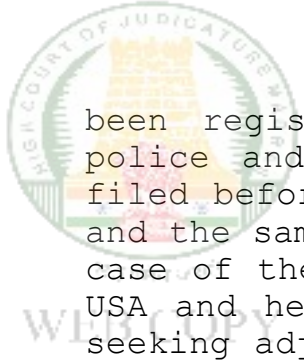
PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to transfer the case in C.C.No.119 of 2014 from the Court of the learned Judicial Magistrate, Uthamapalayam, Theni District to any other Court having competent jurisdiction to try the same in Madurai city.

For Petitioner : Mr.R.Anand
For R1 : Mr.K.K.Ramakrishnan
Additional Public Prosecutor
For R2 to R5 : Mr.A.K.Manickam

O R D E R

This criminal original petition has been filed seeking to transfer the case in C.C.No.119 of 2014 from the Court of Judicial Magistrate, Uthamapalayam, Theni District to any other Court, having competent jurisdiction to try the same in Madurai city.

2.According to the petitioner, the petitioner's daughter has given a complaint against the respondents 2 to 5 and a case has



been registered in Crime No.10 of 2013 by the first respondent police and after completing investigation, charge sheet has been filed before the Judicial Magistrate, Uthamapalayam, Theni District and the same has been taken on file in C.C.No.119 of 2014. It is the case of the petitioner that the petitioner's daughter is working in USA and hence a petition has been filed under Section 309 Cr.P.C. seeking adjournment of the said case. The Court below has dismissed the said petition and issued summons to the petitioner's daughter to make her appearance. Further, under the guise of proceeding with the trial in the abovesaid case, the Court below insisted the respondent police to execute the warrant issued against the petitioner's daughter and secure her from USA. Hence, the petitioner is before this Court seeking transfer of the case in C.C.No.119 of 2014 from the Court of Judicial Magistrate, Uthamapalayam, Theni District to any other Court, having jurisdiction.

3.The respondents 2 to 5 have filed counter affidavit, wherein, paragraph - 7 discloses that the petitioner's daughter left to U.S.A. on 16.10.2016 and thereafter, she visited India during 'Diwali Festival' and again left to U.S.A. on 22.10.2017. Summons were issued to the witnesses by the trial Court on 10.10.2017 and the examination of witnesses was fixed on 25.10.2017. Even though the petitioner's daughter was well aware of the said fact, she did not appear before the trial Court on the hearing date i.e., 25.10.2017 and left to U.S.A. on 22.10.2017 itself. Therefore, the intention of the petitioner's daughter is only to protract the proceedings in disposing of the aforesaid case. Therefore, the present criminal original petition is not maintainable and the same is liable to be dismissed.

4.It is the contention of the petitioner that the trial Court knowing fully the fact that the petitioner's daughter was not in India and left to U.S.A, has deliberately issued witness warrant against her and after receipt of the said warrant by the petitioner, the Court below directed the respondent police to execute the said warrant. Further it is contended that the Court below has dismissed the petition filed under Section 309 Cr.P.C., seeking postponement of trial in C.C.No.119 of 2014 and issued summons to the witnesses for examination.

5.The aforesaid ground urged on the side of the petitioner cannot be accepted and except the said ground, no bona fide or acceptable reason has been assigned by the petitioner to entertain this criminal original petition. Further, since the case is of the year 2014, this Court by order dated 16.08.2017 has rightly directed the Court below to dispose of the case within the prescribed period. In such circumstances, the relief sought by the petitioner cannot be granted and this criminal original petition is liable to be dismissed.



Court to recall the witness warrant issued as against him. Consequently, Crl.M.P.(MD) No.63 of 2018 is closed.

Sd/-

Assistant Registrar(CS-I)

WEB COPY

/True Copy/

Sub Assistant Registrar(CS-IV)

mm

To

- 1.The Judicial Magistrate,
Uthamapalayam, Theni District.
- 2.The Inspector of Police,
All Women Police Station,
Uthamapalayam,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.K.Manickam, Advocate in SR No.73707

Crl.O.P. (MD) No.212 of 2018

NM/PM/SAR IV/27.10.18/3P/5C