



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 12.01.2018
Delivered on: 23.01.2018

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CORAM :

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P (MD) .No.9463 of 2014
and
M.P. (MD) Nos.1 and 2 of 2014

1.O.Kottaichamy
2.Kalayarasi
3.Prakash
4.Jegadeesh
5.Easwari
6.Vasu

... Petitioners/Accused

Vs.

State represented through,
The Inspector of Police,
All Women Police Station,
Tallakulam, Madurai.

... Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 407 of Criminal Procedure Code, to pass an order transferring the case in C.C.No.17 of 2014 on the file of the Judicial Magistrate (Additional Mahila Court), Madurai to the file of the Judicial Magistrate, Theni.

For Petitioners : Mr.T.R.Jeyapalam
For Respondent : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed by the Accused persons to transfer the case in C.C.No.17 of 2014 on the file of the Judicial Magistrate (Additional Mahila Court), Madurai to the file of the Judicial Magistrate, Theni.

2.The brief facts are as follows:-

The respondent herein (Inspector of Police, All Women Police Station, Tallakulam, Madurai) has filed a charge sheet stating that the de-facto complainant Ms. Rajapradeepa is the daughter of one Tmt.Santhini, who is the first petitioner's cousin sister. Taking advantage of the said relationship, the first petitioner pressurised the said Santhini to marry her daughter Rajapradeepa to his son Prakash (third petitioner) and hence the said Rajapradeepa



and the third petitioner were allowed to meet and talk in person and also over phone. Subsequently, all the arrangements have been made for marriage, but suddenly the petitioners 1 and 2 refused to marry the said Rajapradeepa and made arrangements to marry the third petitioner with some other girl and thereby cheated the said Rajapradeepa. Due to the conduct of the petitioners, the said Rajapradeepa consumed poison and hence the accused persons are liable to be punished under Sections 417, 420, 309 r/w 109 I.P.C. and Section 4 of TNPHW Act and Section 3 of Dowry Prohibition Act. Based on the said charge sheet, the learned Judicial Magistrate No.II, (Additional Mahila Court), Madurai has taken the case on fit as C.C.No.17 of 2014.

3.Heard both sides.

4.The learned counsel for the petitioners has submitted that the petitioners are residing in Theni District. He further submitted that the de-facto complainant namely Rajapradeepa also got married to one S.Illango, Saruthupatti, Theni District and she is presently residing in Theni District and other witnesses also residing in Theni District only and hence in the interest of justice the above case has to be transferred to the file of Judicial Magistrate, Theni.

5.The learned Government Advocate (Crl. Side), on the contrary, contented that the occurrence took place only in Madurai District and that most of the witnesses are also residing in Madurai District and if the case is transferred to the Judicial Magistrate, Theni, it would be very difficult for the prosecution witnesses to go to Theni from Madurai and hence he has strongly opposed this petition.

6.As per Section 177 of the code of criminal procedure,1973, every offence will ordinarily have to be enquired into and tried by the Court within whose local jurisdiction it was committed. As per the charge sheet filed by the respondents, the offences have been committed within the jurisdiction of Tallakulam Police Station, Madurai. So, the proper Court to enquire and try the aforesaid offences is the Court situated at Madurai only.

7.A perusal of the copy of the charge sheet filed by the petitioners shows that out of 11 witnesses only 4 witnesses are residing in Theni District and the other witnesses are residing only in Madurai District. Though the first petitioner has stated in his affidavit that the de-facto complainant got married to one S.Illango, Saruthupatti, Theni District and she is presently residing at Theni, he has not produced any material to substantiate the said statement. Therefore, if the case is transferred to the Judicial Magistrate, Theni, it would be very difficult for the prosecution to produce its witnesses before the Judicial Magistrate, Theni. Taking into consideration of all the aforesaid facts, I am of the view that this Criminal Original Petition has to be dismissed.



8. In the result, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate
(Additional Mahila Court), Madurai.
2. The Inspector of Police,
All Women Police Station,
Tallakulam, Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.T.R.JEYAPALAM, ADVOCATE IN SR No. 43725

GSP

TE/KKR/SAR-3 : 07/02/2018 : 3P/5C

Order made in
Crl.O.P(MD).No.9463 of 2014 and
M.P.(MD) Nos.1 and 2 of 2014
23.01.2018