



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WEB COPY

Crl.O.P.(MD).No.12940 of 2016
and
Crl.M.P.(MD).No.6088 of 2016

1.Dr.Renuka ...Petitioner
2.S.Grace Anna Heleena ... Petitioner / De-facto Complainant
Vs.
1.The Inspector of Police,
Ambasamudram Police Station,
Tirunelveli District. ... Respondent / Complainant
2.O.Homerlal
3.Vinoth Biju ...Respondents / 1st and 2nd Accused

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to transfer C.C.No.96 of 2015, in Crime No.257 of 2013, on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District to any other competent Court except under Kanyakumari District.

For Petitioner :Mr.T.Cibichakraborty
For R1 :Mr.K.Suyambulinga Bharathi
Government Advocate
For R2 & R3 : Mr.S.C.Herold singh

O R D E R

This Criminal Original Petition has been filed seeking to transfer the proceedings in C.C.No.96 of 2015, on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District.

2.The learned counsel appearing for the petitioners would submit that originally case was pending before the learned Judicial Magistrate, Ambasamudram. At the instance of the second and third respondents, the case was transferred to the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District. The learned counsel would further submit that the second respondent is a practising Advocate in the very same Court and therefore the petitioners do not want to contest the case before the said Court, since they apprehend threat from the second and third respondents.

3.The learned Government Advocate appearing for the first respondent would submit that there are totally 14 witnesses to be examined by the prosecution. Out of the same, only P.W.1 to P.W.3 have been examined before the Court below and they are yet to be cross-examined. In the meantime, the present petition came to be filed before this Court seeking for transfer and this Court had stayed all further proceedings before the Court below.



4.The learned counsel appearing for the second and third respondents would submit that the case is pending from the year 2015 and the entire proceedings have come to a stand still in view of the stay granted by this Court. The learned counsel would further submit that the second and third respondents will not involve themselves in any activity which will result in threat to the present petitioners. The learned counsel would further submit that the counsel representing the second and third respondents will cross-examine the petitioners and other witnesses on the same day they are examined in chief. The learned counsel would further submit that the proceedings need not to be transferred to any other Court and time limit can be fixed for the completion of the proceedings.

5.This Court has considered the submissions made on either side.

6.This Court does not want to go into the merits or otherwise of the allegations made by the petitioners against the respondents 2 and 3. It is an admitted fact that the second respondent who is arrayed as Accused No.1, in this case, is a practising Advocate before the Judicial Magistrate Court, Kuzhithurai. Therefore, this Court in the interest of justice, deems it fit to transfer the case to some other Court in order to ensure fair trial in this case.

7.In view of the above, the proceedings in C.C.No.96 of 2015, in Crime No.257 of 2013, on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District, is withdrawn and transferred to the file of the learned Judicial Magistrate, Valliyoor. The learned Judicial Magistrate No.I, Kuzhithurai is directed to immediately send the case records to the learned Judicial Magistrate, Valliyoor. The learned Judicial Magistrate, Valliyoor, is directed to immediately re-number the case and start the process of trial and complete the proceedings within a period of four months immediately after the case is transferred to the said Court.

8.The Criminal Original Petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-I)



1.The Judicial Magistrate No.I, Kuzhithurai,
Kanyakumari District.

2.The Judicial Magistrate, Valliyoor.

3.The Inspector of Police,
Ambasamudram Police Station,
Tirunelveli District.

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

+1cc to M/s.Isaac Chambers, Advocate in SR No.92306

+1cc to Mr.S.C.Herold Singh, Advocate in SR No.91611

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NM/RSK/SAR I/31.10.18/3P/7C