



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**
Cr1.O.P. [MD].No.16520 of 2017

C.Sisily

: Petitioner

Vs.

1.The Inspector of Police,
E-1, K.Puthur Police Station,
Madurai District.
[Crime No.758 of 2012]

2.P.V.Soosai

: Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to transfer the case in C.C.No.86 of 2014 from Additional Mahila Judge(Magistrate Level), Madurai to Mahila Court, Srivilliputhur.

For Petitioner : Mr.C.Herold Singh
For R-1 : Ms.S.Bharathi
Government Advocate
For R-2 : Mr.A.John Vincent

ORDER

This Petition has been filed to transfer the case in C.C.No.86 of 2014 from the Additional Mahila Judge(Magistrate Level), Madurai to Mahila Court, Srivilliputhur.

2. The learned counsel for the petitioner would submit that the petitioner is residing at Rajapalayam and she has to every time travel 200 kilometers for every hearing to attend the Mahila Court, Madurai. The second respondent, who is accused in the case has not been appearing before the Court for many hearings. The learned counsel also brought to the notice of this Court, the diary extract, wherein, it is found that the accused was not present before the Court continuously for more than eight hearings. The learned counsel would further submit that the second respondent is a practising advocate before the same Court and therefore the Court below has issued a Non-Bailable Warrant for the appearance of the second respondent. Therefore, the learned counsel would further submit that the case has to be transferred from the learned Additional Mahila Judge(Magistrate



3. Per contra, the learned counsel appearing for the second respondent would submit that, even though the second respondent is a qualified advocate, he is not practising in Courts and he is a priest. The learned counsel would further submit that the second respondent will co-operate with the proceedings that is going on before the Court below and he will not in any way protract the proceedings. The learned counsel would further submit that the petitioner as a de-facto complainant can only be a witness before the Court and immediately after the completion of her evidence, there is no requirement for the petitioner to appear before the Court.

4. It is seen from the records that the second respondent has failed to appear before the Court below on many occasions. The case is still in the stage of trial. Even though the C.C., is of the year 2014, the second respondent has contributed for the delay to a large extent in the disposal of the case. This Court by order dated 22.03.2017 made in CrI.O.P.[MD].No.3094 of 2017 had already given a direction to the Court below to complete the proceedings within a period of six months. However, this order has not been complied with by the Court below and in fact, after this order was passed, the second respondent was absent from the Court on 18.04.2017 till 20.09.2017. Obviously, the Court below would not be able to proceed further due to the absence of the second respondent.

5. In view of the submission made by the learned counsel for the second respondent undertaking to co-operate with the completion of the trial as expeditiously, this Court deems it fit to fix a definite time limit for the disposal of the case in C.C.No.89 of 2014.

6. The Criminal Original Petition is disposed of with a direction to the learned Additional Mahila Judge (Magistrate Level), Madurai to dispose of C.C.No.86 of 2014, within a period of three months from the date receipt of copy of this order.

(6.1) The Court below shall ensure that the witnesses who are examined by the prosecution are cross examined on the very same date when they are examined in chief and the law stated by the Hon'ble Supreme Court in **Vinodkumar Vs. State of Punjab** reported in **2015 (3) SCC 220** is strictly complied with.

(6.2) If the Court below finds that the second respondent is adopting any dilatory tactics, it is open to the Court below to proceed against the second respondent in accordance with



the judgment of the Hon'ble Supreme Court in State of **Uttar Pradesh Vs. Shambunath Singh** reported in **JT 2001(4) SC 319.**

7. The criminal original petition is disposed of with the above directions.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS-III)

To

1.The Additional Mahila Judge(Magistrate Level), Madurai.
(The Additional Mahila Judge(Magistrate Level),Madurai
is directed to report compliance and after completion of
the proceedings)

2.The Mahila Judge, Srivilliputhur.

3.The Inspector of Police,
E-1, K.Puthur Police Station,
Madurai District.

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

COPY TO

The Section officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC To MR.A.JOHN VINCENT, Advocate SR. NO.81002

+1 CC To MR.S.C.HEROLD SINGH, Advocate SR. NO. 81228

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