



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WEB COPY

Crl.O.P.(MD).No.3008 of 2017

and

Crl.M.P.(MD).Nos.2281 & 2282 of 2017

1.Martin Arul

2.Victoriya

3.Anitha

4.Padmanabhan

...Petitioners /Accused Nos.1 to 4
Vs.

1.The State represenated by
The Sub-Inspector of Police,
Anjugramam Police Station,
Kanyakumari District.

...1st Respondent / Complainant

2.Balajirajaram
Complainant

...2nd Respondent / De-facto

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to withdraw the case in C.C.No.170 of 2016, pending on the file of the learned Judicial Magistrate No.III, Nagercoil, Kanyakumari District and transfer the same to the learned Judicial Magistrate, Valliyur, Tirunelveli District.

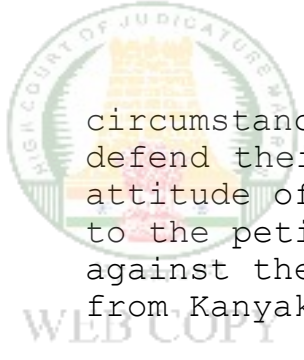
For Petitioners	:Mr.A.Mandiralingeswaran
For Respondent No.1	:Mr.S.Bharathi
	Government Advocate
For Respondent No.2	: No Appearance

ORDER

This Criminal Original Petition has been filed seeking to transfer the proceedings pending in C.C.No.170 of 2016, on the file of the learned Judicial Magistrate No.III, Nagercoil, Kanyakumari District. The petitioners are facing trial before the Court below for the offences under Sections 341, 294(b) and 506 (ii) I.P.C. read with Section 34 I.P.C.

2. The learned counsel appearing for the petitioners would submit that the de-facto complainant is an Advocate, who is practising in Nagercoil Bar. That apart, the Bar Association of Kanyakumari Court at Nagercoil, has also passed a resolution to the effect that no Advocate should appear on behalf of the petitioners to defend their case.

3. The second respondent has been served and he has neither appeared in person nor through his counsel. The name of the second respondent was also shown in the cause list. In the facts and



circumstances of the case, the petitioners will not be able to defend their case effectively before the Court below in view of the attitude of the second respondent. A fair opportunity must be given to the petitioners to defend themselves in the criminal case pending against them. Therefore, the case has to be necessarily transferred from Kanyakumari District to some other District.

4. In view of the above, the proceedings in C.C.No.170 of 2016, pending on the file of the learned Judicial Magistrate No.III, Nagercoil, Kanyakumari District is withdrawn and transferred to the file of the learned Judicial Magistrate, Valliyoor, Tirunelveli District. The learned Judicial Magistrate No.III, Nagercoil, Kanyakumari District is directed to immediately transfer the entire case records to the file of the learned Judicial Magistrate, Valliyoor. The learned Judicial Magistrate, Valliyoor, is directed to proceed further with the case and complete the same as expeditiously as possible.

5. The Criminal Original Petition is allowed with the above directions. Consequently, connected miscellaneous petitions are closed.

Sd/-
Joint Registrar(Judicial)

/True Copy/

Sub Assistant Registrar(CS-IV)

tsg

To

1.The Judicial Magistrate No.III, Nagercoil,
Kanyakumari District.

2.The Judicial Magistrate, Valliyoor, Tirunelveli District.

3.The Sub-Inspector of Police,
Anjugramam Police Station,
Kanyakumari District.

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

+1cc to Mr.A.Robinson, Advocate in SR No.88384

Cr1.O.P. (MD) .No.3008 of 2017

NM/RP/SAR IV/26.10.18/2P/6C.

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