



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD)No.5481 of 2017
and Crl.M.P.(MD)No.3873 of 2017

1. M/s.Divya Enterprises,
Through its Proprietor Smt.Amutha,
W/o Ramu, 6/39, Saravana Street,
T.Nagar, Chennai-17.
2. Amutha,
Proprietor, M/s.Divya Enterprises,
6/39, Saravana Street,
T.Nagar, Chennai-17.

: Petitioners

Vs.

Raja

: Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to transfer the S.T.C.No.138 of 2014 on the file of the learned Judicial Magistrate Court, Periyakulam, Theni District to the learned Judicial Magistrate Court, Saidapet, Chennai District.

For Petitioners : Mr.D.Selvanayagam
For Respondent : Mr.R.Gandhi

ORDER

This Criminal Original Petition has been filed seeking to transfer the case in S.T.C.No.138 of 2014 on the file of the learned Judicial Magistrate Court, Periyakulam, Theni District to the learned Judicial Magistrate Court, Saidapet, Chennai.

2.The learned counsel appearing for the petitioners would submit that the petitioners are accused in S.T.C.No.138 of 2014, which is registered on the basis of the complaint given by the respondent herein under Section 138 Negotiable Instrument Act. He would further submit that the respondent is none other than the brother of the Former Chief Minister of Tamil Nadu, Mr.O.Pannerselvam and he is a highly influential person in that locality and also he is a former Chairman of Periyakulam Municipality. The respondent is facing criminal case in his local limits. He would also submit that the petitioner being lady and resident of Chennai finds it difficult to come Periyakulam and attend Court hearing at Periyakulam. The learned counsel would further submit that fair trial is doubtful and that if this case's



trial is allowed to continue at Periyakulam Court, definitely the petitioner will be put to irreparable loss and grave hardship and thereby he prayed for transfer of the case.

3. The learned counsel appearing for the respondent filed counter stating that the transfer petition filed by the petitioners is totally an abuse of process of law and has been filed suppressing the material facts and that no serious allegations have been made against the petitioner and no ground has been made out in this petition to transfer the case pending on the file of the learned Judicial Magistrate Court, Periyakulam and this petition is filed only with the motive of protracting trial and that case has been pending from the year 2014. He would further submit that the respondent / complainant was examined in chief on 22.09.2016 and that till date the petitioner has not cross-examined him. He would further submit that questioning under 313 Cr.P.C has also been over.

4. This Court is of the view that the petitioner has not made out a case warranting transfer. However, taking into consideration of the fact that the petitioner is a lady, this Court dispenses with the personal appearance of the petitioner. The trial Court shall continue with the trial. On the appearance of the respondent/complainant before the Court, the petitioner/accused shall cross-examine him, on the day fixed by the learned Judicial Magistrate, without any further adjournments. The petitioner/accused shall be present before the trial Court on the day of judgment. The learned Judicial Magistrate Court, Periyakulam, Theni District shall complete the proceedings, within a period of of three months from the date of receipt of a copy of this order.

5. With these observations, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

The Judicial Magistrate,
Periyakulam, Theni District.

+ 1 CC TO Mr.D.SELVANAYAGAM, ADVOCATE IN SR No. 95086
+ 1 CC TO Mr.R.GANDHI, ADVOCATE IN SR No. 94900

GNS

TE/BK/SAR-4 : 24/12/2018 : 2P/4C

<https://hcservices.ecourts.gov.in/hcservices/>

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