WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.09.2018
CORAM:
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD).No.18835 of 2016
and
Crl.M.P.(MD)No.9393 of 2016

Thangaperumal ... Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Cheranmahadevi Police STation,
Tirunelveli District.
(Crime No.68 of 2014)

2.Kanagaraj
3.Ramadoss
4.Arumuga Kannu
5.Dharmam
6.Rajiah ..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 407 of Criminal Procedure Code, to withdraw the case in C.C.No.73 of 2015 pending before the Judicial Magistrate, Cheranmahadevi and transfer the same to the Assistant Sessions Judge, Ambasamudhram for joint trial along with S.C.No.653 of 2015.

For Petitioner : Mr.R.Ramachandran
For Respondent : Mr.K.Suyambulinga Bharahi
No.1 Government Advocate(Crl.Side)
Nos.2 to 6 : No Appearance

ORDER

This petition has been filed seeking to transfer the case in C.C.No.73 of 2015 from the file of the learned Judicial Magistrate, Cheranmahadevi to the learned Assistant Sessions Judge, Ambasamudhram.

2.The petitioner has sought transfer on the ground that there is case and a counter case and both the final reports have been filed by the respondent police. One final report has been taken cognizance in S.C.No.653 of 2015 by the learned Assistant Sessions Judge, Ambasamudhram which pertains to Crime No.69 of 2014. Another final report has been taken cognizance by the learned Judicial Magistrate, Cheranmahadevi in C.C.No.73 of 2015 which pertains to Crime No.68 of 2014. Therefore, the petitioner wants both the cases to be heard by the same Court, since it is a case and a counter case.

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

WEB COPY

3.It is a settled position of law that whether there is a case and a counter case, the same has to be investigated by the same police and separate final report will have to be filed in each of the case and both the cases must be heard and disposed by the same Court. The Court which tries both the cases will have to conduct simultaneous trial.

4. In the facts and circumstances of the case, there shall be a direction to the learned Judicial Magistrate, Cheranmahadevi to transfer the case pending in C.C.No.73 of 2015 to the file of the learned Assistant Sessions Judge, Ambasamudhram to be tried along with S.C.No.653 of 2015. The learned Judicial Magistrate, Cheranmahadevi shall take immediate steps to transfer the case records. The learned Assistant Sessions Judge, Ambasamudhram on receipt of the case records is directed to deal with the cases in accordance with law and complete the proceedings as expeditiously as possible.

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

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The Judicial Magistrate,
Cheranmahadevi.

2.The Assistant Sessions Judge, Ambasamudhram.

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

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

Crl.O.P.(MD).No.18835 of 2016
28.09.2018

AAV
ES/SKN/RSK/SAR 1/01.11.2018/2P/5C

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