

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Reserved on:04.01.2018
Pronounced on:08.01.2018

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Cr1.O.P. (MD) No.23815 of 2016
and
Cr1.M.P. (MD) .No.12585 of 2016

1.S.Joseph Dennis Sahayam

2.Mariya Rosely

... Petitioners/Accused Nos.1 & 2

-Vs-

M.Mariya Gracy

... Respondent/Complainant

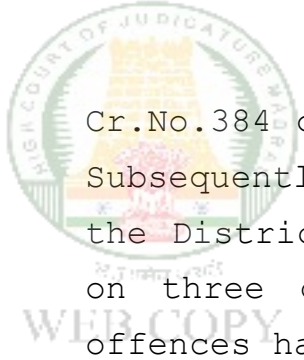
Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.255 of 2016 on the file of the District Munsif cum Judicial Magistrate, Eraniel and quash the same.

For Petitioners : Mr.T.A.Ebenezer
For Respondent : Mr.C.K.M.Appaji

O R D E R

This Criminal Original petition has been filed under Section 482 Cr.P.C to quash the case in C.C.No.255 of 2016 on the file of the learned District Munsif cum Judicial Magistrate, Eraniel.

2.The learned counsel for the petitioners submitted that the petitioners 1 & 2 are the accused Nos.1 & 2 in C.C.No.255 of 2016 on the file of the District Munsif cum Judicial Magistrate, Eraniel. According to him, the marriage between the first petitioner and the respondent was solemnized on 23.05.2008. They begot one female child on 21.04.2009. The respondent gave a
<https://hcservices.himto.gov.in/hcservices> to the first petitioner and his mother before the Puliyangudi Police and a case has been registered on 10.08.2014 in



Cr.No.384 of 2014 under Sections 498(A), 294(b), 323 and 109 I.P.C. Subsequently, the respondent has filed a private complaint before the District Munsif cum Judicial Magistrate, Eraniel, alleging that on three dates, viz., on 15.06.2014, 31.07.2014 and 06.08.2014, offences have been committed by the petitioners herein. He further submitted that as per the complaint, all the aforesaid occurrences took place only in the residence of the first petitioner, which comes under the jurisdiction of Puliyangudi Police Station and the said police station falls within the jurisdiction of Judicial Magistrate, Sivagiri and as such, the learned District Munsif cum Judicial Magistrate, Eraniel is not having jurisdiction to entertain the aforesaid private complaint and therefore, he prayed to quash the case in C.C.No.255 of 2016 on the file of the District Munsif cum Judicial Magistrate, Eraniel.

3.The learned counsel appearing for the respondent has submitted that the marriage between the first petitioner and the respondent was solemnized within the jurisdiction of District Munsif cum Judicial Magistrate, Eraniel and at the time of marriage, a sum of Rs.3 lakhs was given by the respondent's father and that the first petitioner has received the said amount by saying that he will purchase a property in the name of the respondent, but, in stead of purchasing the property in the name of the respondent, he purchased the property in his name and thereby cheated the respondent and her father. He further submitted that since the said transaction took place at the time of marriage and the said marriage was solemnized within the jurisdiction of District Munsif cum Judicial Magistrate, Eraniel, the District Munsif cum Judicial Magistrate, Eraniel is having jurisdiction to entertain the above complaint.

4.In this context, it would be relevant to refer Section 177 Cr.P.C, which reads thus:-

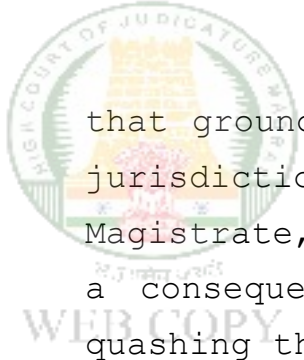
"177:Ordinary place of inquiry and trial:- Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed."

From the aforesaid provision, it is clear that every offence shall ordinarily be enquired into and tried by a court within whose local jurisdiction, it was committed.

5. In this case, a copy of the complaint has been filed along with the typed set filed by the petitioners. In the said complaint, the respondent has stated that on three dates i.e on 15.06.2014, 31.07.2014 and 06.08.2014, she was assaulted and subjected to harassment in the residence of the first petitioner. Admittedly, the first petitioner's residence comes within the jurisdiction of Puliyangudi Police Station, which falls within the jurisdiction of the Judicial Magistrate, Sivagiri.

6. The respondent has also stated in the said complaint in paragraph No.2 that at the time of marriage, apart from jewels and household articles, a sum of Rs.3 lakhs was given to the first petitioner. She also stated in paragraph No.4 of the complaint that her father gave another sum of Rs.3 lakhs for purchasing the property in the name of the respondent. But the first petitioner has purchased the property on 17.09.2008 in his name. So, it is clear that she has not stated that the said amount of Rs.3 lakhs was given for purchasing the property, at the time of marriage itself. Therefore, the learned District Munsif cum Judicial Magistrate, Eraniel does not have the jurisdiction to deal with the matter. On the basis of the factual scenario disclosed by the complainant in the complaint, this court comes to the inevitable conclusion that no part of offence has been committed within the jurisdiction of the learned District Munsif cum Judicial Magistrate, Eraniel.

7. It is also to be pointed out that in respect of the offences said to have been committed on 06.08.2014, admittedly, a case has been registered in Puliyangudi Police Station in Cr.No.384 of 2014 under Sections 498(A), 294(b), 323 and 109 I.P.C and FIR has been forwarded to the jurisdictional magistrate namely Judicial Magistrate, Sivagiri. If any charge sheet is filed in that case, that can be filed only before the Judicial Magistrate, Sivagiri. On



that ground also, the Judicial Magistrate, Sivagiri alone will have jurisdiction. Therefore, the learned District Munsif cum Judicial Magistrate, Eraniel has no jurisdiction to deal with the matter. As a consequence thereof, in the interest of justice, in stead of quashing the aforesaid case, I am inclined to transfer the aforesaid case to the court of the learned Judicial Magistrate, Sivagiri, Tirunelveli District.

8. With the above observation, this Criminal Original Petition is disposed of. Consequently, the case in C.C.No.255 of 2016, pending on the file of the learned District Munsif cum Judicial Magistrate, Eraniel is ordered to be withdrawn and transferred to the file of the learned Judicial Magistrate, Sivagiri, Tirunelveli District. After receipt of records from the learned District Munsif cum Judicial Magistrate, Eraniel, the learned Judicial Magistrate, Sivagiri, Tirunelveli District has to take the case on file and issue summons to both parties and proceed further. Since it is represented that the investigation is still pending in respect of the Cr.No.384 of 2014, it is needless to say that the learned Judicial Magistrate, has to follow the procedures laid down under Section 210 Cr.P.C and dispose of the case. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (P & A)

/True Copy/

Sub Assistant Registrar

To

1. The District Munsif cum Judicial Magistrate,
Eraniel, Kanniyakumari District.
2. The Judicial Magistrate, Sivagiri, Tirunelveli District.

+1cc to M/S.T.A.EBENEZER, Advocate SR.No.41074.

order made in
Crl.O.P.(MD) No.23815 of 2016
08.01.2018