



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.06.2018
Pronounced on : 23.08.2018
CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Tr.C.M.P. (MD) No.543 of 2017 and
CMP (MD) No.11825 of 2017

Kannan ... Petitioner/Defendant

-vs-

A.Palanisamy ... Respondent/Plaintiff

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw and transfer the civil suit in O.S.No.47 of 2014 from the file of the Principal District Judge, Karur to any other District Court in the vicinity and subject to the jurisdiction of this Court.

For Petitioner : Mr.V.Singan
For Respondents : Mr.M.P.Senthil

O R D E R

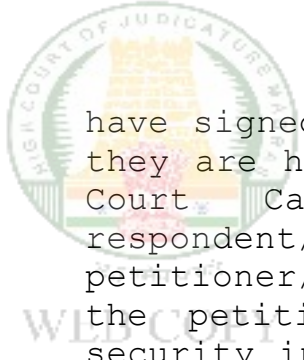
The defendant in O.S.No.47 of 2014 on the file of the learned Principal District Judge, Karur, is the petitioner before this Court filing this petition for transferring the case in O.S.No.47 of 2014 from the file of the learned Principal District Judge, Karur to any other District Court, in the vicinity and subject to the jurisdiction of this Court filed under Section 24 of C.P.C.

2.The case of the petitioner/defendant is that the respondent/plaintiff has filed the civil suit against him for the recovery of money on the basis of promissory note totaling valued in all a sum of Rs.1,41,93,000/- and he is also contested the said suit. As among the promissory note except one promissory note dated 21.09.2013, the other promissory notes are forged.

3.The petitioner also stated that he filed a detailed written statement canvassing the means of the respondent to lend so much of amount of the petitioner without security therefor. The petitioner also states that in the suit, the trial also commenced and PW1, who is the respondent/plaintiff was examined and this petitioner also cross examined.

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4.The petitioner also states that all the witnesses, who



have signed promissory note are also related to the respondent and they are his men. Therefore, there is no free atmosphere at Karur Court Campus. Since, the petitioner found that the respondent/plaintiff has planted men and hirelings to kidnap the petitioner/defendant from the Court premises in order to coerce the petitioner to make payment and also to execute valuable security in his favour after recording of evidence of PW1 which on the face of it is found to be wanting in many circumstances going to the root of the matter so as to affect the sustainability of the suit.

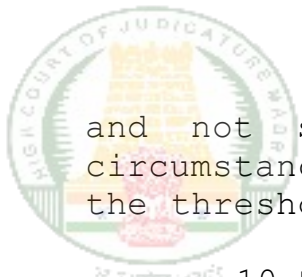
5.The petitioner also states that in the light of the atmosphere of the intimidation and threat by the respondent by himself and also through his hirelings there is a threat to the petitioner life and limbs at all times when the petitioner happened to visit Karur District Court for the purpose of conduct of the case. The petitioner also making allegations saying that the present Judicial Officer, presiding as the Principal District Judge, Karur is also not evenly inclined in the matter of conduct of the case and his recording of the evidence is not to the satisfaction and wherever unsatisfactory answers are given by the respondent, the present Judicial Officer has not prepared to record the evidence verbatim and under all circumstances the Presiding Officer by himself volunteers put questions to the witnesses in the witness box so as to record evidence that is suited to the witness.

6.The petitioner also states that in view of the above facts there is an atmosphere of bias also on the part of the Judicial Officer. In the above circumstances, he was unable to get a fair deal before the present Presiding Officer. Therefore, he approached this Court by filing this present petition under Section 24 of C.P.C. to withdraw and transfer the civil suit in O.S.No.47 of 2014 from the file of the learned Principal District Judge, Karur to any other District Court in the vicinity and subject to the jurisdiction of this Court.

7.On receipt of the notice, the respondent also appeared through his counsel and filed the counter affidavit in this Transfer Civil Miscellaneous Petition.

8.The respondent/plaintiff is denied the entire averments and stated that at the outset the very transfer C.M.P. Now filed by the petitioner is frivolous, vexatious and intended only to drag on the proceedings, especially the suit is for recovery of money based on the promissory notes filed as early as in the year 2014.

<https://hcservices.ecourts.gov.in/hcservices>
9.The respondent also states that the affidavit filed by the petitioner in support of the petition, especially the averments relating to seek transfer are absolutely baseless, vague



and not supported by any substantial materials and in such circumstances, the present Tr.C.M.P. is liable to be dismissed at the threshold with exemplary costs.

10.The respondent also states that the averments made in para No.2 of the affidavit that PW1 has been examined and also been cross examined is true. But the respondent stated that as if the witnesses who have signed in the promissory note are related to the respondent and his men are denied as false and the said allegations are without any basis. The further allegation as if that there is no free atmosphere at Karur Court Campus and as if the respondent has planted men and hirelings to kidnap the petitioner from the Court campus and to coerce the petitioner to make payment and also to execute security are all baseless.

11.The respondent also states that the petitioner has suppressed the crucial issue and infact the dates and events which are germane to decide above Transfer C.M.P. are as follows:

Dates	Events
24.10.2016	Proof affidavit filed by P.W.1
24.10.2016	Respondent filed an application in I.A.No.384 of 2016 to receive an additional document on the side of the plaintiff.
02.11.2016	For marking of documents
08.11.2016	I.A.No.384 of 2016 was allowed.
05.12.2016	P.W.1 present and Ex.A1 to A7 were marked.
08.02.2017	P.W.1 present. Cross examined in part.
10.07.2017	P.W.1 present. Cross examined in full.
07.08.2017	Proof affidavit filed by P.W.2.
23.08.2017	P.W.2 present. Cross examined in full and further adjourned to 23.10.2017 for defendant's side evidence.
27.11.2017	Subsequently petitioner herein filed an application to recall P.W.1 and P.W.1 present. Cross examined and further adjourned to 04.12.2017 for defendant's side evidence.
04.12.2017	Adjourned to 13.12.2017 for D.W.1 evidence as last chance.
15.12.2017	Tr.C.M.P. was filed by the petitioner herein.



20.12.2017	Suppressing the filing of Tr.C.M.P., the petitioner herein took adjournment and the same was adjourned by the Learned Principal District Court, Karur as last chance by stating no further adjournments for D.W.1's evidence.
08.01.2018	The petitioner filed a memo by stating that interim stay has been granted in the above Tr.C.M.P.

12.The respondent also states that infact in all the above hearings when the respondents as well as P.W.2 were examined, the petitioner was very well present before the Court and even in other hearings the petitioner has appeared before the trial Court, but till date the petitioner has not made any complaints before the learned Presiding Officer or to the Police in respect of the alleged threat. The respondent also states that moreover, the petitioner has not even any complaint or representation has been made to any authorities, even through registered post, as such, the allegations are invented only for the purpose of maintaining the Transfer C.M.P.

13.The respondent also states that the petitioner is an accused in C.C.No.100 of 2016 on the file of the learned Judicial Magistrate No.II, Karur and the docket entries from 15.04.2017 to 13.07.2017 which is enclosed in the typed set of papers would throw much light on the issue.

14.The respondent also states that in the said case before the learned Judicial Magistrate No.II, Karur, the petitioner has appeared periodically along with his wife and till now he has not made any complaints as if he has threatened him or he has offended him. As a matter of fact only after serving the proof affidavit of D.W.1 (i.e.) the petitioner herein, the respondent came to know about the criminal proceedings and after that the respondent/3rd party copy application before the learned Judicial Magistrate No.II, Karur and produced the same.

15.The respondent also states that the whole allegations have been made only for the purpose of filing the above Tr.C.M.P. and till date, the petitioner has not produced any scrap of paper by way of any complaint to any of the authorities. Therefore, it made clear that the whole allegations are totally vague and the petitioner has not able to specify the allegation of threat was invented to maintain the above Tr.C.M.P. Therefore, the respondent has prayed this Court for dismissal of the Tr.C.M.P.

<https://hcservices.ecourts.gov.in/hcservices/> 16. I heard Mr.V.Singan, learned counsel for the petitioner and Mr.M.P.Senthil, learned counsel for the respondent and perused the entire materials available on record.



17. Admittedly the suit filed by the respondent/plaintiff is the money suit, the cause of action is arosed within the Court jurisdiction concerned where the suit has been filed. In fact, the suit has been filed by the respondent/plaintiff before the learned Principal District Judge, Karur, which is the jurisdictional Court and entire transactions were taken place within the jurisdiction of the learned Principal District Court, Karur.

18. Section 24 of C.P.C. reads as follows:

"(1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage.

(a) Transfer any suit,, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same, or

(b) Withdraw any suit, appeal or other proceeding pending in any Court subordinate to it, and

(i) Try or dispose of the same, or

(ii) Transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(iii) Retransfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which is thereafter to try or dispose of such suit or proceeding may, subject to any special directions in the case of an order of transfer, either re-try it or proceed from the point at which it was transferred or withdrawn.

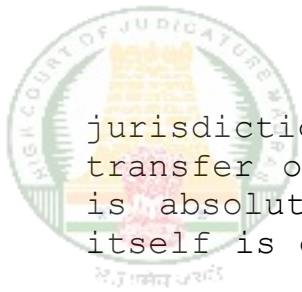
(3) For the purpose of this section-(a) Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court; (b) "proceeding" includes a proceeding for the execution of a decree or order.

(4) The Court trying any suit transferred or withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

(5) A suit or proceeding may be transferred under this section from a Court which has no jurisdiction to try it."

19. The Civil suits only lie before the concerned jurisdictional Court based on the jurisdiction. In fact, the suit schedule of property is like the immovable property or the recovery of amount suit are to be filed only before the jurisdictional Court, since the cause of action are arosed only within the jurisdiction of the particular Court where the property are situated or the amounts are borrowed.

20. It is very essential in the civil suit that the cause of action are the main ground for every suit and the said



jurisdiction is the basic structure of suit itself. Therefore, the transfer of the civil suit from one Court to another Court which is absolutely not possible, since the basic filing of the suit itself is only within the jurisdiction of the Court concerned.

21. The case in hand, the petitioner has filed the Tr.C.M.P. Has not raising any ground in respect of any jurisdictional point, but he says that the plaintiff and the witnesses should have signed in the pronotes are all relatives of the respondent/plaintiff, since they are the plaintiff's men.

22. The petitioner also states that there is no free atmosphere at the Karur Court Campus and the respondent has planted men and hirelings to kidnap the petitioner from the Court premises in order to coerce the petitioner/defendant to make payment and also to execute valuable security in his favour.

23. Apart from this, the petitioner also states that there is a threat to the petitioner's life and limbs at all times. Therefore, he wants to transfer the case from the file of the learned Principal District Court, Karur to any other Court.

24. On fair reading of the grounds by way of affidavit filed by the petitioner which is made clear that it is all baseless allegations and there is no iota of truth, since in this case, two witnesses were examined on behalf of the respondent/plaintiff namely, the plaintiffs 1 and 2 and the petitioner who is the defendant also present in the Court along with his counsel, but there is no allegations either in respect of threat or coerce of the petitioner/defendant at the relevant point of time. In fact, the petitioner has not produced any piece of papers in respect of giving complaint either to the Presiding Officer concerned or to the Police personnel. If the allegations are true, the petitioner would have produced the relevant documents before this Court for support his allegations, but on the part of the petitioner, he has not produced any piece of paper before this Court to substantiate his claim for transfer the case from the learned Principal District Judge, Karur to any other District Court.

25. Though the petitioner has made several allegations against the respondent/plaintiff either against the plaintiff or his alleged hirelings, but in the affidavit filed in support of this Tr.C.M.P., he has not shown any date that the respondent/plaintiff has threatened the petitioner/defendant. Atleast he should produce any copy of the complaint sent to the Police in respect of threat, before this Court. Therefore, the allegations made by the petitioner is not acceptable one and this was made only for the purpose of filing this Tr.C.M.P.

26. Apart from this, if the suits are transferred from the jurisdictional Court to any other Court, then the entire basic



structure of jurisdiction of the suits will be taken away. Then applying the said order the persons who are the parties to the other suits can seek the transfer for one or other reason, which should not be entertainable in law.

27. Therefore, it is made clear that the petitioner has not make out any ground particularly the jurisdiction point in respect of filing the suit for transferring the case. Therefore, I am not inclined to entertain this Tr.C.M.P.

28. In the result:

(a) this Transfer Civil Miscellaneous Petition is dismissed;

(b) the learned Principal District Judge, Karur is directed to dispose of suit in O.S.No.47 of 2014 within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-II)

To
The Principal District Judge,
Karur.

+1cc to Mr.M.P.Senthil, Advocate SR.No.79935
Vsv
MK/RSK/SAR 2/11.09.2018/7P/3C

order made in
Tr.C.M.P. (MD) No.543 of 2017 and
CMP (MD) No.11825 of 2017
23.08.2018