



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C (MD)No.382 and 383 of 2018

J.Alexander

... Petitioner in both Crl.Rc's

Vs.

M/s.Ayiswarya Polymers
Rep its Manager and Authorised
Power Holder
S.Rajan
No.139/213, Ravendranath L/o.
Venkatasamy road, New Sidhapur
Coimbatore- 641 004

...Respondent in both Crl.Rc's

COMMON PRAYER IN BOTH CRL.RC'S: Revision filed under Section 397 r/w.401 of the Code of Criminal Procedure, to call for the records pertaining to the order passed by the learned Judicial Magistrate Fast Track Nagercoil, Kanyakumari District in STC Nos.255 and 563 of 2018 dated 28.06.2018 and set aside the order of transfer.

For Petitioner : Mr.S.Suresh Kumar
in both Crl.R.C's

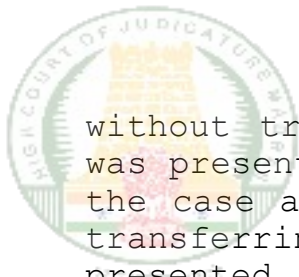
For Respondent : No appearance

COMMON ORDER

These Criminal revision petitions are filed to set aside the order of transfer passed by the learned Judicial Magistrate Fast Track Nagercoil, Kanyakumari District in STC Nos.255 and 563 of 2018 dated 28.06.2018.

2. Heard the learned counsel for the petitioner.

3. This revision is preferred against the order passed by the learned Judicial Magistrate, Fast Track Court (Magisterial level) Nagercoil transferring the case in STC Nos.255 and 563 of 2018 to the learned Judicial Magistrate No.III, Coimbatore for want of jurisdiction. The contention of the counsel for the revision petitioner is that the Negotiable Instrument Act,1950 which came into force following two ordinances passed in this regard clearly facilitate the court in which complaint pending, to retain the case



without transferring it to the jurisdiction court were the cheque was presented. The Validation ordinance 7 of 2015 permits to continue the case arising out of 138 NI Act where they are pending without transferring it to the jurisdiction court were the cheque was presented for collection. Therefore the order of the trial court which has tried the present case and the matter is now posted for arguments need not be transferred to Coimbatore, the jurisdiction were the subject cheque was presented for collection.

4. The contention raised by the learned counsel for the petitioner on the face may appear appropriate, but on passing of the amendment act the ordinance gets substituted and repealed. The validation contemplated under the ordinance 7 of 2015 is no more available for petitioner after introduction of Section 142(A) has come into force and being incorporated in the statute on 15.06.2015. Therefore the legal submission raised by the counsel is not sustainable after 142(A) has come into force since 15.06.2015. Even on facts it is appropriate for judicial magistrate, Coimbatore to try this case since the cheque issued by the accused /revision petitioner was presented by the complainant at Coimbatore for collection and the complainant had initially presented the complaint only before the Judicial Magistrate at Coimbatore. Later pursuant to the ordinance the matter has been transferred to Nagercoil due to uncertainty regarding jurisdiction. It is making of judicial pronouncement and confusion in the legislation. In view of the amendment of the statute by inserting Section incorporating 142(A) NI Act. Now the issue is settled and no more *res integra*.

5. Therefore this Court finds no reason to interfere with the order of the judicial magistrate transferring the Judicial Magistrate, Coimbatore. The counsel represented that the entire trial is over and only arguments has to be advanced by the respective parties. Therefore the learned Judicial Magistrate No.III, Coimbatore is directed to take up the matter on priority basis and hear the counsels, given them adequate opportunity and pass appropriate orders on merits as expeditiously as possible.

6. The apprehension of the learned counsel for the revision petitions that the learned Judicial Magistrate No.III Coimbatore may conduct denovo trial is unfound, since it is now well settled that in a case of private complaint initiated under section 138 of the NI Act neither change of Court nor change of judicial officer nor both warrant denovo trial.

Sd/

Assistant Registrar (W)

/True copy/

Sub Assistant Registrar(CS-IV)

To

1.The Judicial Magistrate,

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

Fast Track Court No.II, Nagercoil,
Kanyakumari District.



2.The Judicial Magistrate No.III,
Coimbatore.

Copy to:
The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

Cr1.R.C (MD) Nos.382, 383 of 2018
03.10.2018

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