



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No.16459 of 2018

and

Crl.M.P(MD) No.7291 of 2018

1. Aantexs

2. Nelson

...Petitioners/Accused No.1 & 2

Vs.

The State rep by its
The Inspector of Police,
Pudhukadai Police Station,
Kanyakumari District.

...Respondent/Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to withdraw the case in C.C. No. 67 of 2018 on the file of the Judicial Magistrate No.II, Kulithurai and transfer the same to the Judicial Magistrate, Valliyoore, Tirunelveli District.

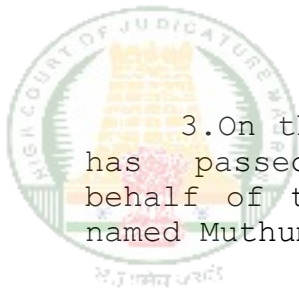
For Petitioners: Mr.S.Ramasamy

For Respondent : Mrs.S.Bharathi
Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed seeking for transfer of proceedings in C.C. No. 67 of 2018 pending on the file of the learned Judicial Magistrate No.II, Kuzhithurai.

2. The learned counsel for the petitioner would submit that petitioners are arrayed as A1 and A2 and the respondent police have filed a final report for alleged offence under sections 323, 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and also under sections 341, 294(b) and 34 of IPC. In this case there are two accused persons. He would further submit that the complainant namely Muthumalar is a practising advocate in Kulithurai court and is a member of Kulithurai Bar Association. The Kulithurai Bar Association has passed resolution on 22.11.2017 to the effect none of the members of the bar will appear in the court pertaining to crime No.398 of 2017. The learned counsel by pointing out to this resolution, submitted that the petitioners will not be able to defend themselves before the court and therefore, the case has to be transferred to another court in a different district.



3. On the face of it, it is clear that the Kulithurai Bar Association has passed a resolution directing the bar members not to appear on behalf of the petitioners in the case which was initiated by advocate named Muthumalar.

4. In the considered view of this Court, this resolution is patently illegal. The Bar Association can never pass resolution stopping the members of the bar appearing in any case and the Honourable Supreme Court has already dealt with such resolutions and held that it is beyond the powers of bar association.

5. This Court is convinced that this case needs to be transferred from the file of the learned Judicial Magistrate No.II, Kulithurai. Accordingly the Case in C.C.No 67 of 2018 pending on the file of the learned Judicial Magistrate No.II, Kulithurai is transferred and placed before the learned Judicial Magistrate, Valliyoor, Tirunelveli District. The Court below is directed to immediately to take steps to transfer the entire case records to the file of the learned Judicial Magistrate, Valliyoor, Tirunelveli District.

6. The Criminal Original Petition is allowed with the above direction. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (cs-III)

// True Copy //

Sub Assistant Registrar(CS-I)

To

1. The Judicial Magistrate No.II,
Kulithurai.
2. The Judicial Magistrate,
Valliyoor,
Tirunelveli District.
3. The Inspector of Police,
Pudhukadai Police Station,
Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.S.RAMASAMY, ADVOCATE IN SR NO.85095

AAV

BU/SKN/SAR-I : 27.09.2018 : 2P/6C