



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI. OP (MD)No.22878 of 2013

C.A.Feroz Ahmed

... Petitioner/
De fecto Complainant

Vs.

1.The Inspector of Police,
Cumbum North Police Station,
Cumbum, Theni District.

2.The Inspector of Police,
Crime Branch - CID,
Madurai District, Madurai.

3.Khaja Mohideen Bose

4.Samsudeen

... Respondents

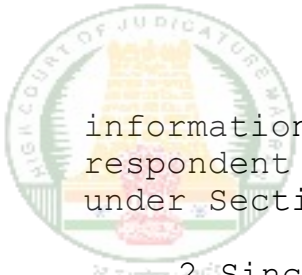
(R3 and R4 impleaded as per the order
of this Court dated 30.06.2015 made in
MP(MD)No.1 of 2014 in CrI.OP(MD)No.
28878 of 2013)

Prayer : This Criminal Original Petition is filed Under Section 482
of Criminal Procedure Code to transfer the investigation of the case
in Crime No.353 of 2013 on the file of the first respondent to the
second respondent.

For Petitioner	: M/s.D.Geetha
For respondents	: Mr.A.Robinson,
No1 & 2	Government Advocate

ORDER

The petitioner is a senior citizen. He owns a property at
Cumbum. In order to secure eviction of the tenants occupying some
of the shops in the said building, he engaged the third respondent
herein as an Advocate. The specific allegation of the petitioner is
that his advocate committed impersonation as well as fabrication of
documents and thereby deprived the petitioner of his legitimate
property rights. In this regard, the petitioner lodged an



information with the first respondent on 22.11.2013. The first respondent registered a case in Crime No.353 of 2013 for offences under Sections 408, 420, 468 and 506(i) of IPC.

2. Since an advocate was involved in this matter, it was suggested that the matter could be amicably resolved. Therefore, the petitioner along with an advocate visited the Court campus at Periyakulam as well as Theni. On account of the hostile atmosphere that prevailed in the court campus no talks could be conducted. Subsequently, this Court appointed Thiru.Arul as an Advocate Commissioner in this regard. The said Advocate Commissioner had filed a detailed report dated 23.02.2014. He had also enclosed materials in support of the findings that he had arrived at. This Court consciously refrains from rendering its findings on the said report as it may possibly prejudice the accused later.

3. The petitioner's counsel expressed her apprehension that in view of the fact that an advocate is involved in this case and that the entire bar is against the petitioner, it would be difficult for the first respondent police to conduct a fair enquiry in this case. This Court is of the view that there is sufficient force and substance in the said apprehension. It is true that in this case, the advocate concerned has been arrayed as the third respondent. But, it is a settled principle of law that an accused has no locus standi to espouse his case when the Court is concerned with the transfer of investigation. This Court is of the view that the interest of justice would be better served if the investigation is transferred to the second respondent.

4. This Court therefore directs the Director General of Police, Mylapore, Chennai to withdraw the file in Crime No.353 of 2013 on the file of the first respondent and transfer the investigation to the second respondent herein. The entire process shall be completed within a period of four weeks from the date of receipt of a copy of this order. It is further directed that the second respondent shall expeditiously conduct the investigation and file final report before the Jurisdictional Court within a period of two months thereafter.

5. This Criminal Original Petition is allowed.

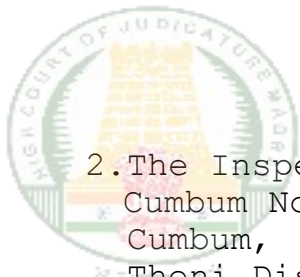
Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Director General Of Police,
Mylapore,
Chennai.



2.The Inspector of Police,
Cumbum North Police Station,
Cumbum,
Theni District.

3.The Inspector of Police,
Crime Branch - CID,
Madurai District,
Madurai.

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

+1CC to Ms.D.Geetha Advocate in SR.No.62384.

SKM

DS/SKN-RSK/SAR-4 :05.07.2018:3P/6C

Cr1. OP (MD) No.22878 of 2013
19.04.2018