

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.02.2019

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIR AIYAN

Cr1.O.P.No. 5111 of 2019

K.Manoharan

.. Petitioner

Vs.

1.A.Devanathan

2.S.Sabanayagam

.. Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct the Principal District Sessions Judge, Salem to take the petitioner in C.F.R.No.686 of 2019 on file and number the petition.

For Petitioner : Mr.S.Gunalan

O R D E R

This Petition has been filed seeking for a direction to the Principal District Sessions Judge, Salem to take the petition in C.F.R.No. 686 of 2019 on file and number the petition.

2. It is seen that the petitioner filed this petition under section 408 of Cr.P.C to transfer the S.T.C.No.367 of 2018 on the file of the Special Judicial Magistrate Court for Land Grabbing Cases, Salem to the file of the Judicial Magistrate No.I Salem for joint trial along with S.T.C.No.1198 of 2018. It is also seen that the petitioner while transfer the petition filed under Section 408 Cr.P.C, before the Chief Judicial Magistrate, Salem instead of Principal District Sessions Court. The transfer petition cannot be maintained before the Chief Judicial Magistrate Court and the Chief Judicial Magistrate is rightly returned the petition and directed the petitioner to file a petition before the Principal District and Sessions Court. It is also seen that the petitioner represented the transfer petition before the Principal District and Sessions Court, Salem on 04.02.2019, again it was returned for the following reasons:

"1.How only because one advocate is appearing for the both the cases of petitioner in reason for transfer?

2.Both the case the complainant are defendant. Hence how it is connected case.

3.Both the cases are in part heard stage. Then how the transfer is lies at this stage."

3. The reasons stated by the Principal District and Sessions Court, Salem, are on merits of the case. On these grounds, the petition cannot be returned. Therefore, the Principal District and Sessions Judge, Salem is directed to take the petition on file and number the same and pass orders on merits.

4. With the above directions, this Criminal Original Petition disposed of.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mpa/lpp

To

- 1.The Principal District and Sessions Judge, Salem.
- 2.The Chief Judicial Magistrate, Salem.
- 3.The Special Judicial Magistrate Court for Land Grabbing Cases, Salem.
- 4.The Judicial Magistrate No.I, Salem.

+1cc to Mr.S.Gunalan, Advocate SR.No.17480

Crl.O.P.No. 5111 of 2019

GMY (14/03/2019)

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