

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.04.2019
CORAM
THE HON'BLE MR.JUSTICE A.D. JAGADISH CHANDIRA
Crl.O.P.No.6658 of 2019 and
Crl.M.P.Nos.3685 & 3687 of 2019

S.Nagarajan

... Petitioner

Vs

State Represented by
Inspector of Police
Vigilance and Anti Corruption
Coimbatore.

.... Respondent

COMMON PRAYER: Criminal Original Petitions filed under Section 407 Cr.P.C to withdraw the case in Spl.C.C.No.5 of 2011 pending on the file of Special Court for trial of cases under the Prevention of Corruption Act, Coimbatore and to transfer the same to any other competent Court in any other District, preferentially the nearby district, so as to enable convenience for the parties of both sides and the witnesses.

For Petitioner : Mr.C.Karthic, Senior Advocate
for Mr.J.Hariharan.

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed, seeking to withdraw the case in Spl.C.C.No.5 of 2011 pending on the file of Special Court for trial of cases under the Prevention of Corruption Act, Coimbatore and to transfer the same to any other competent Court in any other District, preferentially nearby district, so as to enable convenience for the parties of both sides and the witnesses.

2.The petitioner had in para 5 of the supporting affidavit raised certain allegations against the Presiding Officer with regard to the happenings in Court on 28.02.2019, when P.W.12 was present for cross examination. When the matter had come before this Court for admission on 12.03.2019, this Court had called for a report from the learned trial Judge, with regard to the happenings in the Court on 28.02.2019, when P.W.12 was present for cross examination. Further the learned trial Judge was directed to focus his report with regard to allegations made in

para 5 of the affidavit. Accordingly, the learned trial Judge, sent a detailed report dated 19.03.2019.

3.A sworn affidavit has been filed on behalf of the respondent denying the averments in the affidavit of the petitioner filed along with the transfer petition.

4.Perused the affidavit of the respondent and the report of the learned trial Judge dated 19.03.2019. The trial Judge had in detail stated about the happenings in Court on 28.02.2019 and the conduct of the petitioner. The affidavit of the respondent renders support to the report of the learned trial Judge. This Court is convinced with the report and finds no fault in the manner of conducting trial and the happenings on 28.02.2019.

5.Having found no merits in this case, when this Court was about to dismiss the petition, the learned Senior Counsel appearing for the petitioner on instructions would submit that the petitioner is not pressing the allegations made in the petition and he seeks to withdraw the same. However he would submit that since the petition for transfer has been filed, making certain allegations against the trial Judge, a reasonable apprehension has crept in the mind of the petitioner that the trial Judge may be prejudiced and biased against him and thereby it is expedient in the interest of justice and to ensure fairness in trial, the case may be transferred to some other Court.

6.Heard both sides and perused the materials available on record.

7.Affidavit of the petitioner and the respondent and also the report of trial Judge is taken into consideration. Report from the trial Judge is accepted and this Court does not find any error in the conduct of trial by the trial Judge. Though, this Court is of the opinion that the case cannot be transferred at the instance of the petitioner merely on the allegation of hostility of the trial Judge, taking into consideration the submission of the learned Senior Counsel appearing for the petitioner regarding the apprehension of bias and interest of justice, this Court transfers the case in Special C.C.No.5 of 2011, pending on the file of the learned Special Judge, Special Court for cases under Prevention of Corruption Act, Coimbatore, to the file of the learned Chief Judicial Magistrate, Thiruppur, who is the Special Judge to try cases under the Prevention of Corruption Act. The learned Special Judge, Special Court for cases under Prevention of Corruption Act, Coimbatore, shall handover the entire case papers to the learned District Judge, Coimbatore, who shall forward it immediately to the learned District Judge, Thiruppur, who in turn shall forward the same to the learned Chief Judicial Magistrate, Thiruppur. The learned Chief Judicial Magistrate, Thiruppur, shall take up the case for formal hearing on 09.04.2019 and the petitioner shall appear

before the said Court, thereafter the learned trial Judge shall in consultation with the respondent fix a date for appearance of P.W.12. The petitioner shall also file an affidavit of undertaking that P.W.12 shall be cross examined on the day of his appearance before the learned Chief Judicial Magistrate, Thiruppur. Further the learned trial Judge shall ensure that the trial of the case will be completed on or before 31.05.2019.

8.With the above direction, the Criminal Original Petition stands disposed of. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1.The Special Court for trial of cases under the Prevention of Corruption Act, Coimbatore.
- 2.The District Judge, Coimbatore.
- 3.The District Judge, Thiruppur.
- 4.The Chief Judicial Magistrate, Thiruppur.
- 5.The Public Prosecutor
High Court of Madras.
- 6.The Inspector of Police
Vigilance and Anti Corruption
Coimbatore.

+1cc to Mr.J.Hariharan, Advocate sr.no.31795

CrI.O.P.No.6658 of 2019 and
CrI.M.P.Nos.3685 & 3687 of 2019

nr 02/04/2019