

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.354 of 2019
and
Crl.M.P.No.5003 of 2019

Venkatesan

...Petitioner

Vs.

1. State by Inspector of Police,
Pullarambakkam Police Station,
Thiruvallur District.

2. Sivamani

...Respondent

Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure, prayed to order for joint trial of the Cr.No.249 of 2017 and S.C.No.25/2018 on the file of the Learned first Additional District Judge at Tiruvallur and Crime No. 25/2018 in C.C. No. 246/2017 on the file of the Judicial Magistrate No.I, Thiruvallur further call for the records to peruse the same.

For Petitioner : Mr.T.G.V.Aravinthan

For Respondent : Mr.R.Ravichandran,
Govt. Advocate (Crl. side)

O R D E R

The above Criminal Revision has been filed to order for joint trial of the Cr.No.249 of 2017 and S.C.No.25/2018 (Cr.No.250 of 2017) further call for the records to peruse the same.

2. The respondent police registered a case in Cr. No.249 and 250 of 2017. After interrogation, the respondent police filed separate charge sheet before the learned Judicial Magistrate-I, Tiruvallur and the same were taken on file in C.C.No.249 of 2017. Since the offence is triable by the Court of Sessions, the learned Magistrate committed the case to the learned Sessions Judge. The Sessions Judge has taken the case on file in S.C.No.25 of 2018 and also made over the case to the learned Additional Sessions Judge, Tiruvallur for disposal. The learned

Additional Sessions Judge, after completing the legal formalities, framed charges.

3. The respondent police has filed the charge sheet in Crime No.250 of 2017 before the learned Magistrate. The learned Magistrate found that since it is warrant case and the same is triable by the Magistrate. Therefore, the case is pending before the Magistrate.

4. Before the Sessions Court, after framing charges, when the case is posted for trial, the petitioner herein has filed the petition stating that the Crime No.250 of 2017 is counter case to the Crime No.249 of 2017. Therefore, the case pending before the learned Magistrate has to be committed before the Sessions Court for joint trial. The learned Additional Sessions Judge called for the entire records in Crime No.250 of 2017 from the learned Magistrate and after perusing the records, came to the conclusion that cause of action is different and time is also different and therefore, the two cases cannot be treated as case and counter case. Aggrieved against the same, the revision petitioner has filed present revision case before this Court.

5. The learned counsel for the petitioner would submit that both the cases were registered based on the information received from the hospitals and also the respondent police recorded the statement of the victims separately and also registered the case. Both the offences have taken place in one and the same place i.e. Same street. Both the offences occurred at 8'0 clock. The witnesses have spoken that both the cases occurred at the same place. Therefore, the crime No.250 of 2017 is counter case in Crime No.249 of 2017 in S.C.No.25 of 2018.

6. The learned Sessions Judge has failed to consider the fact that both the occurrences have taken in one place at the same time and it is a case and counter. Therefore, the order impugned in this revision warrants interference.

7. Heard the learned counsel for the petitioner and the learned Special Public Prosecutor and perused the materials available on record.

8. The learned Sessions Judge has already called for the entire records from the learned Magistrate in Crime No.250 of 2017 and also records pending with the learned Sessions Judge in Crime No.249 of 2007. After perusing the entire records and considering the submissions made by the learned counsel, came to the conclusion that it is not a case and counter case. Therefore, crime No.250 of 2018 cannot be a counter case for the crime No.249 of 2018. Therefore, it should be tried separately. This Court, on reading of the entire records and also the order

passed by the learned Sessions Judge, does not find any perversity in the order passed by the Sessions Judge holding that both the cases would be tried separately. Separate trial will not affect the case in Crime No.250 of 2017 and it is only a warrant case. The offence is only triable by the learned Magistrate. The case in Crime No.249 of 2017 relates to grave offence, triable only by the Court of Sessions. There is no need to try them together. There is no merits in the revision and this Court does not find any perversity in the order passed by the learned Sessions Judge.

9. In the result, this Criminal Revision is dismissed. Consequently, connected miscellaneous petition is also closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The I Additional District Judge, Tiruvallur.
2. The Judicial Magistrate-I, Tiruvallur
3. The Inspector of Police,
Pullarambakkam Police Station,
Thiruvallur District.
4. The Public Prosecutor,
High Court, Madras.

+2 CCS to Mr.T.G.V.Aravinthan, Advocate sr 34517.

Cr1.R.C.No.354 of 2019
and
Cr1.M.P.No.5003 of 2019

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GMR (CO)
SP (29/01/2020)