

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2019

CORAM :

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CrI.R.C. No.421 of 2019
and
CrI.M.P.No.6486 of 2019

C.Palanisamy ... Revision Petitioner
Vs.

1.Anuradha Partha Sarathy
2.Kumar ... Respondents

Prayer: Criminal Revision Case filed under Section 397 and 401 Cr.P.C., praying to call for the records relating to Tr.Cr.M.P.No.1247 of 2018 and to set aside the order dated 15.04.2019 passed by the learned Principal District and Sessions Judge, Ariyalur and consequently transfer the C.C.No.173 of 2009 pending on the file of the Judicial Magistrate No.I to Judicial Magistrate No.I or II, Jayankondam, Ariyalur District.

For Petitioner : Mr.S.SelVaraj

For R1 : Mr.D.Sairam Kumar

O R D E R

This Criminal Revision Case has been filed to call for the records relating to Tr.Cr.M.P.No.1247 of 2018 and to set aside the order dated 15.04.2019 passed by the Principal District and Sessions Judge, Ariyalur and consequently transfer C.C.No.173 of 2009 pending on the file of the Judicial Magistrate Court No.I, Ariyalur to Judicial Magistrate Court No.I or II, Jayankondam, Ariyalur District.

2.For the sake of convenience, the parties will be referred to by their name.

3.Palanisamy has filed a private complaint in C.C.No.173 of 2019 before the Judicial Magistrate Court No.I, Ariyalur, against Anuradha Parthasarathy and another, for the offences under Sections 294(b), 341, 323 and 506(1) IPC. It is the case of Palanisamy that, on

02.07.2018, he had requested one Anbalagan to come to the Court for giving evidence on his behalf; the case was not taken up by the Court in the morning, because, there were other cases and his case was passed over; in the afternoon, Anbalagan went to Abirami Mess and after having his lunch, when he came to the Court at around 01.40 p.m., two persons accosted him and warned him that he should not give evidence against Anuradha Parthasarathy; therefore, he got frightened and went away; in this regard, an online complaint was given to the Inspector of Police, Ariyalur Police Station.

4.Hence, Palanisamy filed Tr.Cr.M.P.No.1247 of 2018 before the Principal District and Sessions Court, Ariyalur, for transferring the case in C.C.No.173 of 2009 to any other Court outside Ariyalur. The Principal District and Sessions Judge made over the Tr.Cr.M.P.No.1247 of 2018 to the I Additional District and Sessions Court, Ariyalur, for enquiry. After hearing either side, the learned I Additional District and Sessions Judge, by impugned order dated 15.04.2019 in Tr.Cr.M.P.No.1247 of 2018, has rejected the allegation of Palanisamy that the witness was threatened, however, transferred the case from the file of the Judicial Magistrate Court No.I, Ariyalur, to the file of Judicial Magistrate Court No.II, Ariyalur. Aggrieved by the order, Palanisamy is before this Court.

5.Heard the learned counsel appearing for Palanisamy and the learned counsel appearing for Anuradha Parthasarathy.

6.The learned counsel for Palanisamy submitted that the District and Sessions Judge ought not to have transferred the case from the file of Judicial Magistrate Court No.I, Ariyalur, to Judicial Magistrate Court No.II, Ariyalur, and should have transferred it outside Ariyalur, as the accused Anuradha Parthasarathy is very powerful in Ariyalur and she will tamper with the witness.

7.Per contra, the learned counsel appearing for Anuradha Parthasarathy refuted the contentions.

8.This Court gave its anxious consideration to the rival submissions.

9.The fact remains that a private complaint is pending from the year 2009 to 2019. Palanisamy examined only three witnesses. It is his allegation that, one of his witnesses, by name Anbalagan, was threatened by two unknown persons and therefore, the said Anbalagan ran away from the Court on 02.07.2018. The Sessions Court has given a finding that Palanisamy had not produced any substantive materials to show that Anbalagan was present

on 02.07.2018 and that he was threatened by two unknown persons as alleged by Palanisamy. Had such an incident taken place, Palanisamy should have made a complaint to the Judicial Magistrate No.I, Ariyalur, in writing and the Magistrate would have taken steps to ensure that the said witness is examined on another day. However, that was not done in this case. Under such circumstances, this Court does not find any infirmity in the order passed by the District and Sessions Judge, warranting interference.

10.It is seen that the case is posted for questioning under Section 313 Cr.P.C., which means that, prosecution evidence is over. If Palanisamy wants to examine Anbalagan, he may make an application under Section 311 Cr.P.C., within two weeks from the date of receipt of a copy of this order and on such application being filed, the same shall be allowed and the Judicial Magistrate No.II, shall give sufficient protection to Anbalagan for being examined.

11.With the above observations, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Principal District and Sessions Judge,
Ariyalur.
- 2.The I Additional District and Sessions Judge,
Ariyalur.
- 3.The Judicial Magistrate No.II,
Jayankondam, Ariyalur District.
- 4.The Judicial Magistrate No.I
Jayankondam, Ariyalur District.

+1cc to Mr. S.SelVaraj, Advocate SR.No. 46853

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