

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.OP No.16080 of 2019
and
Crl MP No.8033 of 2019

Dhanasekaran

.. Petitioner

.Vs.

State by
The Inspector of Police,
Harur Police Station,
Harur,
Dharmapuri District.
Cr.No.211 of 2017

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to withdraw the C.C.No.57 of 2019, on the file of learned District Munsif cum Judicial Magistrate, Pappireddipatti and transfer the same to any one of the Magistrate Court at Krishnagiri District.

For Petitioner : Mr.K.Thiruvengadam

For Respondent : Mr.M.Mohamed Riyaz, APP

ORDER

This Criminal Original Petition has been filed seeking for transfer of the proceedings in C.C.No.57 of 2019, pending on the file of the learned District Munsif cum Judicial Magistrate, Pappireddipatti.

2. It is seen from records that the petitioner is the de facto complainant and based on his complaint, the respondent have registered an FIR in Cr.No.211 of 2017, for an offence under Section 147, 294(b), 323 and 506(ii) IPC. After the completion of the investigation, a Final Report was filed before the learned Judicial Magistrate, Pappireddipatti and the same was taken on file in C.C.No.57 of 2019.

3. Subsequently, charges were framed and the case was at the stage of trial. At this stage, the present transfer petition has been filed before this Court.

4. The learned counsel for the petitioner submitted that the accused persons belongs to the ruling party and they are repeatedly threatening the petitioner and the other witnesses are forcing them to turn hostile. The learned counsel further submitted that even though the same was brought to the notice of the Court below, no action has been taken. The learned counsel further submitted that the learned Public Prosecutor, who is conducting the case is also insisting for the witnesses to turn hostile in this case. Therefore, the learned counsel submitted that the trial cannot proceed in a fair manner with the atmosphere that is prevailing in the Court and the case has to be transferred to some other Court in the interest of justice.

5. The learned Additional Public Prosecutor submitted that the Court below has already taken up the case for trial and the present petition has been filed by making vague allegations against the Police, Public Prosecutor and also the Court below. The learned Additional Public Prosecutor further submitted that these are unsubstantiated allegations, and therefore the present petition should not be entertained by this Court.

6. Admittedly in this case, the petitioner is the de facto complainant. The de facto complainant has approached this Court seeking for transfer, on the ground that the petitioner and the witnesses are being threatened by the accused persons to turn hostile and in spite of the same, being informed to the Court below, no action has been taken till date. The learned counsel has further submitted that the learned Assistant Public Prosecutor is also acting hand in glove with the accused persons.

7. In cases of this nature, the Court has to satisfy itself that the trial is conducted in a congenial atmosphere and there is fairness in the trial. Even if the allegations made by the petitioner are taken to be an exaggerated version, the allegations made in the affidavit gives an impression to this Court that the atmosphere prevailing in the Court is not congenial to conduct the trial. This Court has to ensure that there is fairness in the trial for both sides and no prejudice will be caused, if the case is transferred to the nearest Court at Uttangarai.

8. In view of the above, the proceedings in C.C.No.57 of 2019, on the file of the learned District Munsif cum Judicial Magistrate, Pappireddipatti is withdrawn and transferred to the file of the learned Judicial Magistrate, Uttangarai. The entire case records is directed to be

transferred to Judicial Magistrate, Uttangarai, within a period of four weeks from the date of receipt of copy of the order. The case shall thereafter be tried and completed within a period of four months by the learned Judicial Magistrate, Uttangarai.

Criminal Original Petition is disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

KP
To

1. The District Munsif cum Judicial Magistrate,
Judicial Magistrate Court, Pappireddipatti.
 2. The Inspector of Police,
Harur Police Station,
Harur,
Dharmapuri District.
 3. The Judicial Magistrate
Uttangarai.
 4. The Public Prosecutor,
High Court of Madras,
Madras.
- +1 CC to Mr.K.Thiruvengadam, Advocate sr 51619.

Cr1.OP No.16080 of 2019

GJII(CO)
SP(28/06/2019)

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