

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP.No.17034 of 2019
and
Crl.M.P.No.8568 of 2019

Vinoth Kumar

...Petitioner

Vs.

Inspector of Police,
Perumanallur Police Station,
Tiruppur District.
(Cr.No.534 of 2018)
Respondent

...

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to withdraw the case pending in Spl.S.C.No.3 of 2019 on the file of Learned Magalir Neethimandram, Tiruppur and transfer the same to any other competent Court in Tiruppur District so as to have a fair trial.

For Petitioner : Mr.A.Saranraj

For Respondent : Mr.M.Mohamed Riyaz
Additional Government Pleader

ORDER

This petition has been filed seeking to withdraw and transfer the proceedings pending in Spl.S.C.No.3 of 2019 before the Magalir Neethimandram, Tiruppur.

2.The grounds that have been raised for the transfer is that the learned counsel for the petitioner had sought time to cross examine P.W.1 and P.W.2 and the Court below did not grant adjournments. Therefore, the learned counsel for the petitioner was forced to cross examine P.W.1 and P.W.2 and certain important questions were left out from being asked to the witness. Thereafter, a petition under Section 311 of Cr.P.C. came to be filed before the Court below and the same was dismissed on 29.05.2019.

3.The learned counsel for the petitioner submitted that the Court below is proceeding further in the case in a hasty manner without giving opportunity to the petitioner to effectively defend himself in the case.

4.The learned Additional Public Prosecutor submitted that the case on hand is under the POCSO Act and the Court below is expected to conduct the trial on a day-to-day basis. The learned counsel further submitted that the petitioner has not made out any ground for transfer of the case.

5.In the considered view of this Court, the grounds raised by the petitioner does not warrant transfer of the case pending before the Court below.

6.In view of the judgment of the Hon'ble Supreme Court in Vinod Kumar v. State of Punjab reported in 2015 3 SCC 220, the trial proceedings will have to go on day-to-day basis and the witnesses will have to be cross examined on the same day they are examined in chief. The Court below has merely follow the dictum of the Hon'ble Supreme Court. This is more so in a case under POCSO since the Act itself does not entitle the victim from being repeatedly exposed for trial in view of the provision under Section 33(5) of the POCSO Act.

7.In view of the above, this Court does not find any merits in this petition and accordingly this petition is dismissed. It goes without saying that the Court below shall give sufficient opportunity to the petitioner to defend himself in this case since he is facing serious charges under the POCSO Act. Consequently, connected miscellaneous petition is closed.

jas/vs

Sd/-

सत्यमेव जयते Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

To

1.Inspector of Police,
Perumanallur Police Station,
Tiruppur District.
(Cr.No.534 of 2018)

2.The Public Prosecutor,
High Court, Madras.

CRL.OP.No.17034 of 2019
and
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Kak (19/08/2019)



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