

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

CrI.O.P.No.16657 of 2019

&

CrI.MP No.8368 of 2019

Moduga Sri Jagadheesh Petitioner/Accused

Vs.

Parthiban Ravindran Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 407 r/w 482 of Criminal Procedure Code, to transfer the complaint in S.T.C.No.1141 of 2016 on the file of the Judicial Magistrate I, Gopichettypalayam, Erode District to any Judicial Magistrate Court in Coimbatore District.

For Petitioner : Mr.Saitanya Kesan

For Respondent : Mr.S.C.P.Palanichamy

O R D E R

This petition has been filed seeking for the transfer of the complaint pending before the Judicial Magistrate No.I, Gopichettypalayam in S.T.C.No.1141 of 2016 to the file of any other Judicial Magistrate Court in Coimbatore.

2.It is seen from records that the respondent has filed a complaint against the petitioner for an offence under Section 138 of the Negotiable Instruments Act. The complaint was taken cognizance in the year 2016. The main allegations that have been made in this petition is that the petitioner is a resident of Andhara Pradesh and he is facing repeated threats from the respondent and even the Counsel representing the petitioner was threatened whenever he appeared before the Court. Therefore the

petitioner apprehends that he will not be able to conduct a free and fair trial before the Court below.

3.The learned Counsel for the petitioner submitted that the petitioner has already given a complaint to the District Judge, Erode alleging about the threat caused by the respondent. However since no action has been taken on the representation, the petitioner was constrained to move this Court seeking for transfer of the proceedings.

4.The learned Counsel appearing on behalf of the respondent submitted that the allegations made by the petitioner is totally false. The learned counsel submitted that the petitioner did not regularly appear before the Court below and therefore a bailable warrant has also issued against him and only thereafter the petitioner appeared before the Court below. The learned Counsel further submitted that the petitioner did not appear before the Court below right from 27.12.2018 onwards. The learned Counsel assured this Court that no threat will be caused to the petitioner or his counsel from the side of the Respondent and in fact this court can even fix a time limit for the completion of the proceedings.

5.Taking into consideration the facts and circumstance of the case, this Court is not inclined to transfer the proceedings at this stage. However in order to ensure that the fair trial takes place before the Court below, the Court below is directed to dispense with the appearance of the petitioner during the proceedings and he shall be represented by a counsel. The Counsel representing the petitioner shall cross examine the witnesses on the same day they are examined in chief and the petitioner shall not dispute the identity of the witnesses. The petitioner shall be present before the Court below at the time of questioning under Section 313 of Cr.P.C. and at the time of final judgment. The Court below is directed to complete the proceedings in S.T.C.No.1141 of 2016 within a period of three months from the date of receipt of copy of this order.

6.This Criminal Original Petition is disposed of with the above directions. Consequently connected CrI MP No.8368/2019 is closed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

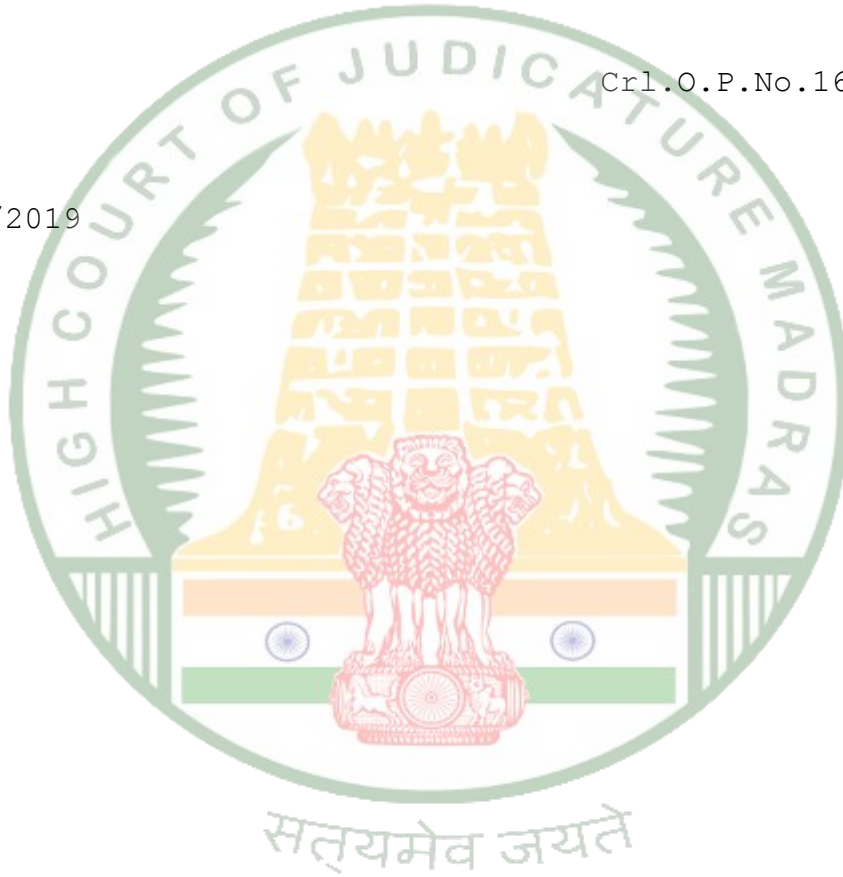
To

The Judicial Magistrate No.I,
Gopichettypalayam,
Erode District.

+lcc to M/s.Saithanya kesan, Advocate Sr.61062
+lcc to M/s.V.P.K.Gowtham, Advocate Sr.61504

Crl.O.P.No.16657 of 2019

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