

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2019

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.19966 of 2019

and

Crl.M.P No.10244 of 2019

R.Nagaraj

...Petitioner

Vs.

The State Rep. by
The Inspector of Police
Perur Police Station,
Coimbatore District.

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to transfer the trial in S.C No.43 of 2016 from the 3rd Additional District & Sessions Judge at Coimbatore to any other Additional Court & Sessions Judge at Coimbatore.

For Petitioner : Mr. P.Saravanan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed seeking for transfer of the proceedings pending on the file of the III Additional District and Sessions Judge, Coimbatore in S.C No.43 of 2016.

2. The petitioner is facing trial before the Court below for an offence under Section 302 of IPC. After the filing of the final report, the charges have been framed and the prosecution started examining the witnesses. The petitioner had filed a petition for deferring the cross

examination under Section 231 of Cr.P.C and the same was not entertained by the Court below. The petitioner therefore proceeded to cross examine the prosecution witnesses.

3. The grievance of the petitioner is that while the counsel for the petitioner is cross examining the prosecution witness, the Public Prosecutor is intervening and disturbing the counsel appearing for the petitioner. When it was brought to the notice of the trial Court, the trial Court is also not taking it seriously and the petitioner is not being treated equally and therefore, there is a prejudice against the petitioner. It is the further case of the petitioner that a complaint has been given in this regard before this Court and the petitioner is apprehensive that he will not get a fair trial before the Court below and therefore, the present petition has been filed seeking for transfer.

4. The learned Additional Public Prosecutor submitted that the grounds raised by the petitioner does not warrant transfer of the trial to a different court. The learned counsel submitted that the petitioner wants to drag on the proceedings and therefore, he has filed the present petition in order to ensure that there is no progress in the trial. The learned counsel further submitted that the sessions case has been pending from the year 2016.

5. The reasons stated in the petition seeking for transfer of the case, is far from convincing. The petitioner has raised one of the most frivolous reasons seeking for transfer. The objections or interjections that happens in the course of trial, is part and parcel of the trial proceedings. In fact, as and when any objections are to be raised, it has to be raised then and there and that cannot be taken as a disturbance or intervention while examining the witnesses before the Court below. The trial Court has been given wide powers under the Indian Evidence Act under Chapter X and the trial Court is expected to take control of the trial proceedings by ensuring that both the parties get a fair chance and the trial goes on in a fair manner.

6. This Court is not convinced with the grounds raised by the learned counsel for the petitioner seeking for the transfer of the proceedings. The Court below shall ensure that the accused persons get a fair

opportunity to cross examine the witnesses and to produce witnesses on the side of the defence.

7. In the result, this Criminal Original Petition is dismissed and there shall be a direction to the Court below to complete the trial in S.C No.43 of 2016 within a period of three months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The III Additional District & Sessions Judge,
Coimbatore.

2. The Inspector of Police
Perur Police Station,
Coimbatore District.

3. The Public Prosecutor
High Court of Madras.

CRL.OP.No.19966 of 2019

and

CrI.M.P No.10244 of 2019

vsn ii (CO)
A.SK(21/08/2019)

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