

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.16956 of 2010

M.Satya

... Petitioner

Versus

1.The State,
Represented by District Superintend of Police,
Peralamballur Sub Division,
Peralamballur District.

2.Murugesan,

3.Vijay Govindraaj @ Vijay Kumar,

4.Kumar

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to withdraw the Spl.S.C.No.4 of 2008 on the file of the District Court, Peralambalur and transfer to District Court, Villupuram or any other District Court.

For Petitioner : Mr.S.K.Chandrakumar

For R1 : M/s.C.Thankira
Government Advocate [Crl.Side]

For R2 : Ms.C.Vediappan for
M/s.C.S.Associates

For R3 : No Appearance

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ORDER

This Criminal Original Petition has been filed to transfer the proceedings in Spl.S.C.No.4 of 2008 from the file of the District Court, Perambalur to the file of District Court, Villupuram or any other Court.

2.The petitioner is working as Agriculture Coolie. In the year 2007, under the instructions of the 2nd respondent, the

petitioner and her husband and other ten persons belonging to the same village and other three persons belonging to Keeranoor, went for agriculture work on contract basis in the land owned by the 1st respondent. When they are doing the work, the accused persons tortured them both mentally and physically, by using filthy language and assaulted. Therefore, they filed a complaint before the Sub Inspector of Police, Maruvathur Police Station. On the receipt of that complaint, the Sub Inspector of Police, Maruvathur Police Station has registered the case under Sections 342, 324, 506(ii) of IPC read with 3(i)(x)(iii)(1)(xi) of SC/ST PO Act, in Crime No.24 of 2007. Thereafter, the 1st respondent had conducted the investigation and filed the charge sheet before under Section 342, 324, 506(ii) of IPC and read with 3(i)(x)(iii)(1)(xi) of SC/ST PO Act, against the 2nd to 4th respondents. Further, there are 33 witnesses that have been numbered as Spl.S.C.No.4 of 2008 on the file of the District Court, Perambalur." The petitioner is the defacto complainant and the respondents 2 to 4 are the accused.

3.The contention of the learned counsel for the petitioner is that the witnesses including women, who came to the Court to depose on 14.06.2010, a group of people belonging to Udayar Community, the relatives of the 2nd respondent surrendered and threatened the witnesses not to depose against the respondents 2 to 4 and they would be killed while returning back. Hence, the petitioner and the other witnesses could not depose on that day, thereafter, the case was periodically adjourned for examination of witnesses. In this regard, the petitioner had sent a representation dated 12.06.2010 and 21.06.2010 to the learned District Judge, Perambalur and the District Collector, Perambalur respectively. Since no action was taken, the petitioner filed this petition to transfer the case.

4.Ms.C.Vediappan, learned Counsel on behalf of M/s.C.S.Associates, for the 2nd respondent submitted that there was no threat to the witnesses as alleged by the petitioner. The 2nd respondent has been falsely implicated in this case, due to dispute with regard to the payment of wages. He further submitted that the petitioner, taking advantage of the weaker status has falsely implicated the respondents 2 to 4 in this case. In fact, the defacto complainant and other witnesses were working in the field of the respondents 2 to 4 for quite some time, without any compulsion or fear. He further undertakes that, due to the pendency of the above case, the respondents 2 to 4 are put to untold misery.

5.The learned Government Advocate appearing on behalf of the respondent Police submitted that no complaint was made to the respondent Police about any such threat as alleged by this petitioner. The respondent Police on several occasions had taken summons to the defacto complainant and others for their

appearance, but they refused to receive the same and due to which, the case has been pending from the year 2008 without any progress. In fact the respondent Police are being questioned by the superior officers. Due to non-cooperation of the petitioner and the witnesses, the case could not be proceeded.

6.The learned Government Advocate further submitted that, as per SC & ST Amended Act, 2015, 'Victim' and 'Witness' have been defined and Chapter IV-A has been inserted providing the rights of victims and witnesses. As per Section 15-A of the Act, it shall be a duty and responsibility of the respondent Police to make arrangement for the protection of victims and their rights. As per the Act, the respondent Police shall extend cooperation for protection and safety of the witnesses and also shall facilitate these witnesses to depose before the trial Court without any fear or threats of violence.

7.In view of the same, an adequate protection has been given in the said Act to victims and witnesses. The petitioner is a victim, hence as per Section 15-A is the duty cast upon the state to make arrangements for the protection of the victims.

8.Hence, the respondent and the trial Court is directed to take appropriate steps to safeguard and protect the rights of the victims and witnesses, as per the Amended Act, if any representation made by the petitioner or other witnesses and also directed to complete the proceedings in Spl.S.C.No.4 of 2008 within a stipulated time.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vv2

To

1.The District Judge,
Perambalur.

2.The District Superintendent of Police,
Perambalur Sub Division,
Perambalur District.

3.The Public Prosecutor,
High Court,
Madras.

Copy To:

The Section Officer,
Criminal Section,
High Court, Madras.

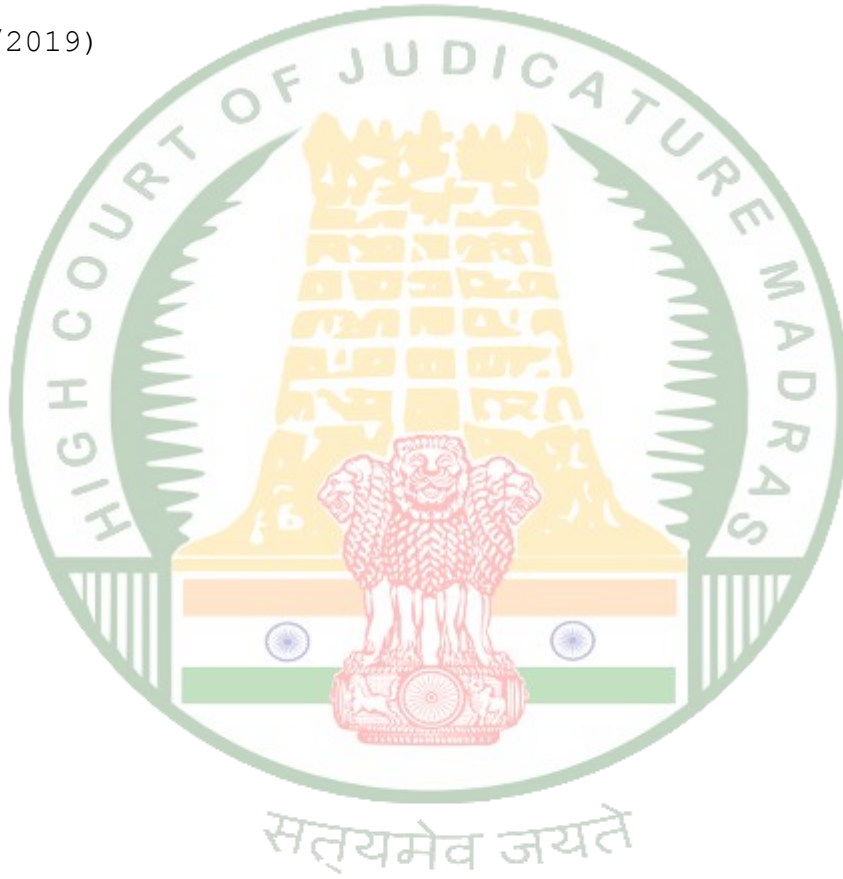
+1cc to M/s.C.S. Associates, Advocate, S.R.No.45567

+1cc to Mr.S.K.Chandrakumar, Advocate, S.R.No.45626

CRL.O.P.No.16956 of 2010

SS (CO)

RRS (18/07/2019)



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