

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.20625 of 2019
and CrI.M.P.No.10600 of 2019

M.Balasubramaniam

...Petitioner

Vs.

1.The Inspector of Police,
Kallavi Police Station,
Krishnagiri District.
(Crime No.245 of 2015)

2.Kalavalli

3.S.Sathish

4.Kandsamy

5.Ravichandran

6.Sivaji

7.Rejini Selvam

8.Venkatraman

9.Krishnan

10. Tamilarasan

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to withdraw and transfer the case in C.C.No.134 of 2016 on the file of Judicial Magistrate Court, Uthangarai to Judicial Magistrate Court, Harur, Dharmapuri District.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor for R1

ORDER

This petition has been filed seeking to withdraw and transfer the proceedings in C.C.No.134 of 2016, pending on the file of the Judicial Magistrate Court, Uthangarai.

2. The grievance of the petitioner is that there is a case in counter and both the cases are pending in C.C.No.117 of 2016 and C.C.No.134 of 2016, before the Judicial Magistrate, Uthangarai and in both the cases the same Additional Public Prosecutor is appearing for the prosecution and he is sailing with the defacto complainant in this case in C.C.No.134 of 2016.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent police.

4. In a case in counter, the same Public Prosecutor cannot appear in both the cases. Separate Public Prosecutor must conduct the case on behalf of the State. The manner in which a case in counter has to be conducted is now well settled by the judgment of the Hon'ble Supreme Court in Nathi lal and others Vs. State of UP and another reported in 1990 SCC (Cri) 638, and which was subsequently followed by this Court, in Ganesan Vs. State reported in 2011 (5) CTC 747.

5. The grievance expressed by the petitioner is a curable grievance and the same can be taken care by directing the Court below to appoint a separate Additional Public Prosecutor to conduct the case in C.C.No.134 of 2016. By taking this step, the grievance expressed by the petitioner can be redressed. It is not necessary to transfer the case for this purpose.

6. In view of the above, there shall be a direction to the Judicial Magistrate Court, Uthangarai, to direct the State to allot the case in C.C.No.134 of 2016, to be conducted by a separate/different Additional Public Prosecutor. The learned Additional Public Prosecutor who is conducting the case in C.C.No.117 of 2016 shall not conduct the case on behalf of the prosecution in C.C.No.134 of 2016.

7. This Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C.No.117 of 2017 and C.C.No.134 of 2016 within a period of six months from the date of receipt of copy of the order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

rri

To

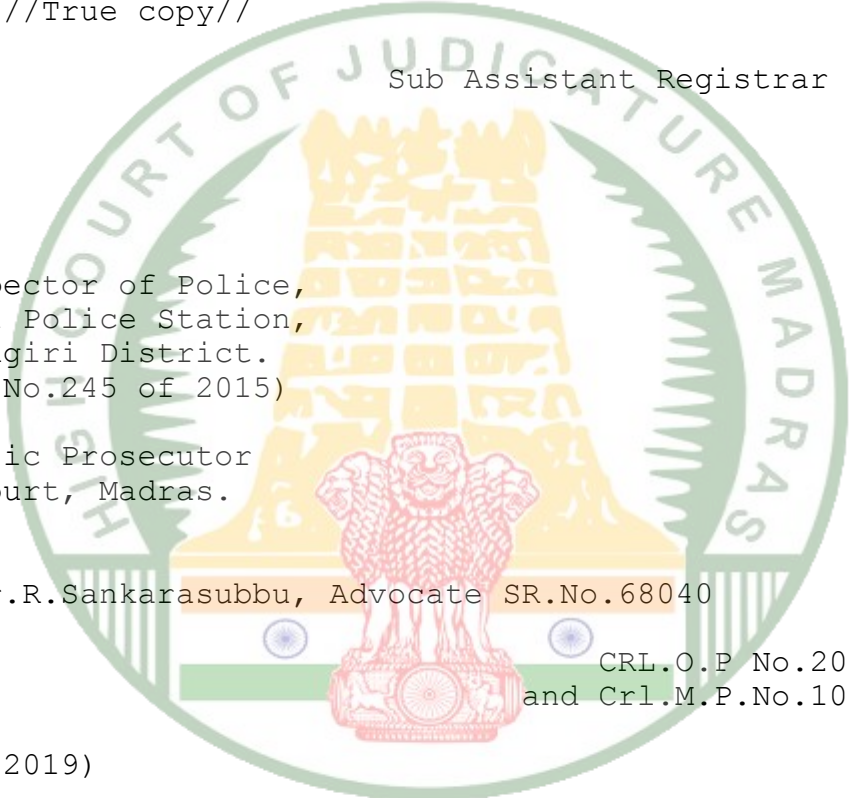
1.The Inspector of Police,
Kallavi Police Station,
Krishnagiri District.
(Crime No.245 of 2015)

2.The Public Prosecutor
High Court, Madras.

+1cc to Mr.R.Sankarasubbu, Advocate SR.No.68040

CRL.O.P No.20625 of 2019
and Crl.M.P.No.10600 of 2019

RGN (CO)
GMY (23/09/2019)



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