

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.23539 of 2019
and
Crl.M.P.No.12386 of 2019

Karthick Deepa ... Petitioner

-vs-

State Rep. by
The Inspector of Police,
Paramathi - Velur Taluk,
(Crime No.18 of 2014). ... Respondent

Prayer: Criminal Original petition is filed under Section 407 of Criminal Procedure Code, to transfer SC.No.125/2017 pending before the Principal District & Sessions Judge, Namakkal to the Special Court constituted for offences under the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act and order joint trial of SC.No.125/2017 along with SC.No.67/2018.

For Petitioner : M/s.K.Indu Priya

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

ORDER

This petition has been filed seeking for a transfer of the proceedings pending in S.C.No.125 of 2017 on the file of the Principal District and Sessions Judge, Namakkal to be tried along with S.C.No.67 of 2018 which is pending on the file of the Special Court for SC/ST (Prevention of Atrocities) Act cases, Namakkal.

2.The learned counsel for the petitioner submitted that the petitioner had lodged a complaint for the very same incident which is the subject matter in S.C.No.67 of 2018 pending before the Special Court, and the case is now pending in S.C.No.125 of 2017 before the Principal District and Sessions Judge, Namakkal. The learned counsel submitted that the petitioner has been shown as an accused in S.C.No.67 of 2018.

3.The learned counsel further submitted that the investigation was conducted in both the cases and both the cases ended in filing of the final report and therefore both the cases will have to be heard together by the same Judge, failing which there will be multiplicity of proceedings and there are also chances of contradicting Judgments. The learned counsel submitted that the parties are the same and the witnesses are also common for both the cases.

4.Heard the learned Additional Public Prosecutor appearing on behalf of the respondent police.

5.It is an admitted fact that there is a case and counter for the same incident and both the cases have ended up in filing of the final report and cognizance has also been taken by two different Courts. The petitioner is shown as an accused in S.C.No.67 of 2018 which is now pending on the file of the Special Court for SC/ST Act cases, Namakkal. The petitioner is the defacto complainant in the case that is pending in S.C.No.125 of 2017 pending on the file of the Principal District and Sessions Judge, Namakkal. Therefore, necessarily a joint trial has to be conducted by the same Court.

6.In view of the above, the case that is pending in S.C.No.125 of 2017, on the file of the Principal District and Sessions Judge, Namakkal, is hereby withdrawn and transferred to the file of the Special Court for SC/ST Act cases, Namakkal, to be tried along with S.C.No.67 of 2018. The Principal District and Sessions Judge, Namakkal is directed to send the entire case papers to the Special Court within a period of two weeks from the date of receipt of copy of this order. The Special Court immediately on receipt of the case papers shall assign a new number and shall jointly try the case along with S.C.No.67 of 2018. The Special Court shall keep in mind the guidelines given by the Hon'ble Supreme Court in Nathilal and others Vs. State of U.P. and another reported in 1990 SCC (Cr1) Page 638 and the

judgment of this Court in Ganesan and another vs. State rep. by the Inspector of Police, R-2 Kodambakam Police Station, Chennai reported in 2011 5 CTC 747. The Special Court shall dispose of both the cases within a period of six months thereafter.

7.This Criminal Original Petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vs

To

- 1.The Inspector of Police,
Paramathi - Velur Taluk,
Namakkal District.
- 2.The Public Prosecutor,
Madras High Court, Chennai.
- 3.The Principal District and Sessions Judge,
Namakkal.
- 4.The Special Court for SC/ST Act Cases,
Namakkal.

+1cc to Mr.V.P.Sengottuvel, Advocate Sr.74464

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srg 26/09/2019