



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P. (MD) .No.7965 of 2019

and

CrI.M.P. (MD) .No.4870 of 2019

Palaniyandi

: Petitioner

Vs.

S.Ramadurai

: Respondent

PRAYER: Petition is filed under Section 407 of the Criminal Procedure Code to transfer S.T.C.No.1063 of 2015 case pending on the file of the learned Judicial Magistrate, Thirumangalam to some other Judicial Magistrate other than in Madurai District for hearing and disposal.

For Petitioner

: Mr.N.Karthik Kanna

For Respondent

: Mr.S.Prem Kumar

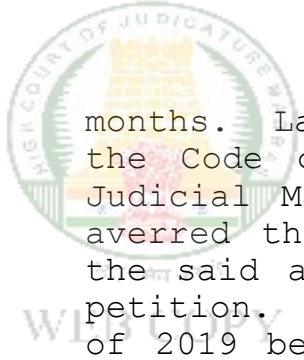
ORDER

This Criminal Original Petition has been filed seeking to transfer S.T.C.No.1063 of 2015, on the file of the learned Judicial Magistrate, Thirumangalam to some other Judicial Magistrate other than in Madurai District for hearing and disposal.

2.The petitioner is the accused in a private complaint filed by the respondent/complainant for the offence under Section 138 of the Negotiable Instruments Act. The learned counsel appearing for the petitioner would submit that the learned Judicial Magistrate was biased against the petitioner. Hence, the petitioner filed a petition before the Trial Court under Section 408 of the Code of Criminal Procedure seeking for transfer of the case in S.T.C. No.1063 of 2015 to the file of some other learned Judicial Magistrate. But the learned Judicial Magistrate refused to entertain the said application and proceeded with trial, by returning the said petition. Hence, apprehending that justice will not be done to him, this petition has been filed.

3. I have heard the learned counsel for the parties and perused the records carefully.

4.Earlier, the petitioner has filed CrI.O.P.(MD).No.11418 of 2017 before this Court for quashing the proceedings in S.T.C.No.1063 of 2015. This Court, by order dated 26.10.2018, directed the learned Judicial Magistrate to dispose of the case, within a period of three



months. Later, the petitioner filed a petition under Section 311 of the Code of Criminal Procedure on 24.05.2019 before the learned Judicial Magistrate, for examining the Bank Manager. Now, it is averred that the learned Judicial Magistrate, without considering the said application, returned the same and finally dismissed the petition. Challenging the same, the petitioner filed CrI.R.C.No.35 of 2019 before the learned Sixth Additional District and Sessions Judge, Madurai. On 10.04.2019, the said case was also dismissed by the learned Sessions Judge on the ground that the petition has been filed only for dragging the proceedings.

5. It is seen from the records that on 03.06.2019, the petitioner filed a transfer petition before the learned Principal District and Sessions Judge, Madurai. The learned Principal District and Sessions Judge refused to take the petition on file and returned the petition.

6. First of all, the present petition filed by the petitioner seeking for transfer of the case under Section 407 of the Code of Criminal Procedure is not maintainable before this Court. Admittedly, the petitioner has already approached the learned Principal District and Sessions Judge concerned seeking for transfer under Section 408 of the Code of Criminal Procedure and that application has been returned, which was not challenged by the petitioner. That apart, on merit also, merely because the application under Section 311 of the Code of Criminal Procedure filed by the petitioner has been dismissed by the learned Judicial Magistrate, it cannot be a reason for attributing bias against a Judicial Officer and for seeking transfer of case. From the perusal of the records, it could be seen that the petitioner has filed all these petitions only to drag on the proceedings. Hence, I find no merit in the petition and consequently, it only deserves to be dismissed and accordingly, dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar (CS-)

tsg/SML

To

1.The Judicial Magistrate,
Thirumangalam.

2.The Chief Judicial Magistrate,
Madurai.



3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.PREMKUMAR, Advocate (SR-68206[F] dated 12/06/2019)

Order made in
CRL.O.P. (MD) .No.7965 of 2019

ES/02.07.2019/3P/5C