



THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2019

CORAM:

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.5129 of 2019

and

Crl.M.P.(MD)No.3221 of 2019

1.A.Raisa Nasrin

2.A.E.Al.Ameen

: Petitioners/Accused Nos.1 & 2

-Vs-

A.S.Bilal (Advocate)

: Respondent/Complainant

**Prayer:** Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to withdraw the case in C.C.No.2448 of 2016 pending before the learned Metropolitan Magistrate Court at George Town, Chennai and transfer the same to the file of Learned Judicial Magistrate Court, Ilayankudi, Sivagangai District or any court of competent Jurisdiction.

For Petitioners

: Mr.T.Lajapthy Roy

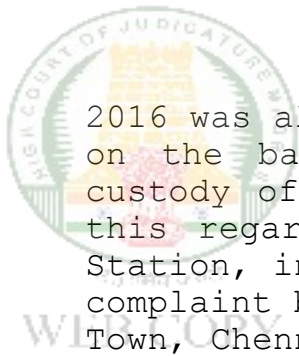
For Respondent

: Mr.R.John Sathyan

**ORDER**

This petition has been filed to withdraw the case in C.C.No.2448 of 2016 pending before the learned Metropolitan Magistrate No.XVI, George Town, Chennai and transfer the same to the file of Learned Judicial Magistrate Court, Ilayankudi, Sivagangai District or any Court of competent Jurisdiction.

2. The learned counsel for the petitioners would submit that the respondent and his father are Advocates in the same jurisdictional Court. A complaint was lodged by the respondent alleging that the marriage was solemnized between the first petitioner and the respondent on 27.12.2009 and they have blessed with one female child viz., Aisha Imaya. Thereafter, there was a quarrel between them, as such, they obtained divorce decree from District Munsif cum Magistrate, Ilayankudi, on 21.06.2017. Thereafter, in respect of the custody of the child G.W.O.P.No.1 of



2016 was also filed before the Family Court, Sivagangai District and on the basis of the order passed in G.W.O.P.No.1 of 2016, the custody of the child was handed over to the first petitioner. In this regard, a case has also registered by the Ilayangudi Police Station, in Crime No.57 of 2016. Thereafter, the respondent filed a complaint before the learned Metropolitan Magistrate No.XVI, George Town, Chennai, to harass the first petitioner to attract her with a false and grievous allegation. Therefore, he sought for transfer of the said case from the file of the learned Metropolitan Magistrate No.XVI, George Town, Chennai to the file of the learned Judicial Magistrate Court, Ilayankudi, Sivagangai District. He further submitted that in fact the first petitioner also filed a complaint under the Domestic Violence Act as against the respondent in D.V.O.P.No.11 of 2018 and it is pending on the file of the learned Judicial Magistrate No.I, Sivagangai.

3. The learned counsel for the respondent would submit that the petitioners already filed a quash petition before the Principal Bench of this Court in Crl.O.P.(MD)No.24683 of 2016 and it was withdrawn by order dated 06.11.2017, in which the appearance of the petitioners was also dispensed with except for such hearing which may be required essential by the trial Court. Even then, the petitioners have filed this petition for transfer of complaint. He further submitted that admittedly the respondent is an Advocate and he will be treated only as an Advocate and therefore, it is not a ground for transferring the entire complaint to other Court and therefore, the petition may be dismissed.

4. Heard both sides.

5. The first petitioner is the wife and the second petitioner is the father-in-law of the respondent. The first petitioner and the respondent got married on 27.12.2009, thereafter, due to misunderstanding they were separated and also got divorce from the District Munsif Court, Ilayankudi, on 21.06.2017. Thereafter, D.V.O.P.No.11 of 2018 as well as the police complaint in Crime No.57 of 2016 were filed by the first petitioner, as against the respondent. While being so, the respondent filed a complaint before the learned Metropolitan Magistrate No.XVI, George Town, Chennai, as against the petitioners, to return the jewels and other cash. It is also challenged by the petitioners before the Principal Bench of this Court in Crl.O.P.(MD)No.24683 of 2016 and this Court dispensed with the personal appearance of the petitioners before the trial Court. As rightly pointed out by the learned counsel for the respondent, the respondent being an Advocate, he will be treated only as an Advocate. Therefore, the ground raised by the petitioners cannot be considered for transfer of the complaint. Therefore, this Court is not inclined to transfer the petition.



6. Hence, this Criminal Original Petition is dismissed.  
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ( )

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Sub Assistant Registrar (CS )

Is

To

1.The Metropolitan Magistrate No.XVI,  
George Town,  
Chennai.

2. The Section Officer,  
Criminal Section,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate SR-94536.

+1 CC to M/s.R.JOHANSATHYAN, Advocate SR-94755.

**Crl.O.P. (MD)No.5129 of 2019**

**24.10.2019**

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