



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.03.2019
PRONOUNCED ON : 30.08.2019

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CORAM:

THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

Crl.O.P.[MD]Nos.629 and 630 of 2019
and
Crl.M.P.(MD)Nos.1121 to 1124 of 2019

Kevin : Petitioner in both cases
Vs.
Newman : Respondent in both cases

COMMON PRAYER : Criminal Original Petitions are filed under Section 482 of Cr.P.C., to transfer C.C.Nos. 495 and 496 of 2018 on the file of the learned Magistrate-II, Trichy to any one of the Metropolitan Magistrate, Saidapet, Chennai, considering the petitioner appearance in Trichy will put the petitioner into irreparable hardship injury and loss to the petitioner life and liberty.

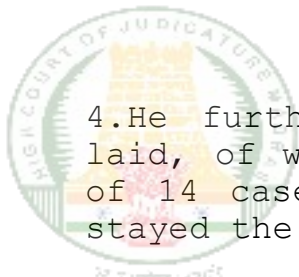
For Petitioner : Mr.P.Saranath
(in both cases)
For Respondent : Mr.Shanmugaraja Sethupathy
(in both cases) for Mr.A.Rahul

COMMON ORDER

The present petitions are filed to transfer C.C.Nos.495 and 496 of 2018 on the file of the learned Judicial Magistrate-II, Trichy, to any one of the Metropolitan Magistrate, Saidapet, Chennai.

2.Heard the learned Counsel for the petitioner and the learned Counsel for the respondent.

3.The learned Counsel for the petitioner submitted that the petitioner, the respondent and a certain Kumar, an Advocate, have floated a partnership, and were doing business. While so, another Advocate named Gowtham got associated with the aforesaid Kumar. Trust and the cordiality that it generated the differences arose among the partners and according to the petitioner, Kumar and the respondent turned against him and developed a strong enmity towards him, and began to lay countless number of cases by applying pressure through the police.



4.He further submitted that in Chennai alone 23 complaints were laid, of which, the Investigation Agency itself has closed as many of 14 cases. As to the remaining cases, the Principal Bench has stayed the investigation.

5. Turning to the present cases, according to the learned Counsel for the petitioner, two cheques alleged to have been issued by the petitioner to the respondent for discharge of an outstanding liability, bearing dates in July, 2017 or August, 2014 came to be dishonored. Almost immediately, statutory notices were issued under Section 138 of the Negotiable Instruments Act, 1881, to which, the petitioner has issued his reply notice in both the notices on 20.08.2016. Thereafter, for next 225 days, the complainant/respondent herein did not initiate any action to institute any complaint. But, later he had laid the same with necessary application to condone the delay. Accordingly, the delay was condoned and both cases were taken on file.

6. Now, the petitioner apprehends that these complaints were represented by Advocate Gowtham, who was previously associated with his erstwhile partner, Kumar, and he apprehends that justice may not be done in his case.

7.The learned Counsel for the respondent submitted that Gowtham no more appears for the respondent in this case and he was replaced by another Counsel, by one Mr.Karthick.

8.The learned Counsel for the petitioner, however, made a strong plea that it will be unsafe for him in Trichy, where the respondent and Kumar operate. His prayer now becomes two folds, either to transfer the cases to a neutral venue from Trichy, or atleast to change the Court.

9.The learned Counsel for the respondent would state that there is no allegation against the learned Magistrate in these petitions, there may not be any change of Courts. He also added that so far as the petitioner's safety is concerned, he assured this Court that there will not be any danger to the petitioner from his client.

10.1 In view of the assurance given by the respondent on petitioner's safety, there is no present need to transfer the cases pending in C.C.Nos.495 and 496 of 2018, pending on the file of the learned Magistrate No.II, Trichy. Accordingly, both the criminal original petitions are dismissed.



10.2 The learned counsel for the petitioner made a submission to dispense his personal appearance before the learned Magistrate. His appearance may be dispensed unless the learned Magistrate requires his presence specifically.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The Judicial Magistrate No.II,
Trichy

+1 CC to Mr.A.RAHUL, Advocate (SR-84770[F] dated 30/08/2019)

+1 CC to Mr.SARANATH, Advocate (SR-84927[F] dated 03/09/2019)

Order made in

Crl.O.P.[MD]Nos.629 and 630 of 2019

30.08.2019

cmr

MK (15.10.2019) 3P 4C