



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 25.11.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. R.C. (MD) NO.216 OF 2019

and

CrI.M.P(MD)No.3283 of 2019

Mahendiran

.. Petitioner/Petitioner/
Accused

- Vs -

Sivam

.. Respondent/ Respondent/
Complainant

Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, to call for the records of the learned Principal Sessions Judge, Thanjavur in CMP No.4222 of 2018 in S.T.C.No.148 of 2017 and set aside the order dated 27.03.2019.

For Petitioner : Mr.MA.Karunanithi

For Respondent : Mr.D.R.Murugesan

ORDER

This criminal revision is filed against the order passed in Tr.CMP No.4222 of 2018 in S.T.C.No.148 of 2017 dated 27.03.2019 dismissing the petition filed under Section 408 of Criminal Rules of Practice to transfer the case in S.T.C.No.148 of 2017 on file of the Judicial Magistrate, Fast Track Court, Pattukkottai to the some other Court in Thanjavur District.

2.The learned Judge has given a finding in para 5 and ultimately dismissed the petition. Paragraph 5 of the order is extracted hereunder:-

"5) Finding: Heard the Learned Counsel for both sides and perused the records. Admittedly, the respondent filed a complaint against the petitioner u/s 138 of N.I.Act in STC No.148/2017 on the file of Judicial Magistrate, FTC, Pattukkottai and the case is posted for enquiry and the complainant examined as PW.1 and when it was posted for cross examination, the petitioner was not ready to cross



examine and not appeared before the court and hence, warrant has been issued and subsequently, he filed a petition to recall the warrant. Without appearance, that petition was dismissed as stated by the respondent's counsel. The allegation to transfer the case is that the Judicial Officer compelled the petitioner to pay the cheque amount. To substantiate his allegation, there is no material on record. Further, this type of allegation against the Judicial Officer cannot be entertained. In such circumstances, I found there is no valid substantial ground for transferring the case from one Court to another Court.

"Transfer of cases from one court to another is a serious matter because it indirectly casts doubt on the integrity or competence of the Judge from whom the matter is transferred. This should not be done without a proper and sufficient cause."

"A mere suspicion by a party that he will not obtain justice, does not justify transfer. There must be reasonable apprehension to that effect."

"Mere presumptions or possible apprehension could not and should not be the basis of transferring a case one court to another. Only in very special circumstances, it may become necessary to transfer a case from one court to another."

The petition for transfer is dismissed as it has no merits. Thus, this point is answered accordingly.

3.The trial Judge has held that there was no material on records warranting to transfer the case to some other Court. The learned Judge also found that there is no valid substantial ground for transferring the case from one Court to another Court.

4.This Court finds that the reason as adopted by the trial Court in dismissing the petition is well founded and the same does not call for any interference. On the whole, the finding of the trial Court against the petitioner herein does not suffer from any infirmity and this Court independently finds that there are no grounds made out for transfer of the case. In such circumstances, this Court finds the present criminal revision petition is devoid of merits and substance and the same is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)



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To

- 1.The Principal Sessions Judge, Thanjavur.
- 2.The Judicial Magistrate, Fast Track Court, Pattukkottai.
- 3.The Chief Judicial Magistrate, Tanjore at Kumbakonam

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KK/SAR/12.12.2019/3P-4C/