



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2019

CORAM:

WEB COPY

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

Crl.O.P.(MD)No.14455 of 2019

and

Crl.M.P.(MD)No. 8726 of 2019

Raj @ Prem Raj

...Petitioner/Accused No.1

-Vs-

1.The Inspector of Police
Kaliyakavilai Police Station,
Kanyakumari District
(Crime No.385 of 2015)

... 1st Respondent/Complainant

2.C.M.Saju

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to transfer the Case in C.C.No.236 of 2017 on the file of the Learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District to any Court of competent jurisdiction in Tirunelveli District

For Petitioner : Mr.A.Thiruvadi Kumar

For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate(crl.side)

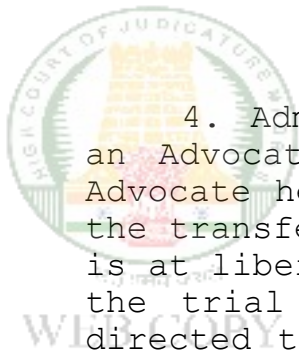
For R2 : Mr.H.Elango

O R D E R

This Criminal Original Petition has been filed to transfer the Case in C.C.No.236 of 2017 on the file of the Learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District to any Court of competent jurisdiction in Tirunelveli District.

2. Heard both sides.

3. The only point raised by the petitioner is that the defacto complainant is a practicing Advocate in Kanyakumari District and also he is also a Member of Kuzhithurai Bar and hence, he would not get fair justice if the trial proceeds in the same Court.



4. Admittedly, the second respondent / defacto complainant is an Advocate and also the Member of the Bar, on the strength of Advocate he can appear before any Court. Therefore, on that ground the transfer petition cannot be considered. However, the petitioner is at liberty to lodge a complaint, if any untoward incident, before the trial Court and on receipt of the same the trial Court is directed to take appropriate action on the complaint lodged by the petitioner. Considering the fact that the trial is pending from the year 2017, the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District, is directed to proceed with the trial and complete the same within a period of six months from the date of receipt of a copy of this order.

4.At this juncture, the learned Counsel for the petitioner submitted that the presence of the petitioner before the Trial Court may be dispensed with.

5.Accepting the said submission, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. The petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

6.Accordingly, the Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

Ls

To
The Judicial Magistrate No.I,
Thoothukudi, Thoothukudi District.

Copy to:
The Section Officer, Criminal Section, (2 Copies)
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.A.THIRUVADI KUMAR, Advocate (SR-100752[F] dated 22/11/2019)
+1 CC to M/s.H. ELANGO, Advocate (SR-100117[F] dated 21/11/2019)

Crl.O.P.(MD)No.14455 of 2019
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JMN(13.12.2019) 2P : 6C

<https://hcservices.ecourts.gov.in/hcservices/>