



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.07.2019

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL OP(MD).No. 19257 of 2014

and

M.P.(MD).No.1 of 2014

Regan

... Petitioner

Vs.

1. The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.

2.Rani

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to set aside the order in Transfer Crl.O.P.No.4445 of 2012, on the file of the learned District Judge, Kanyakumari at Nagercoil, dated 06.07.2013.

For Petitioner : Mr.H.Velavadhas

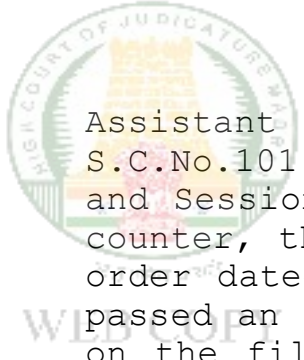
For R-1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl. side)

For R-2 : Mr.M.P.Senthil

O R D E R

This Criminal Original Petition has been filed challenging the order passed by the learned District and Sessions Judge, Kanyakumari District, at Nagercoil, for simultaneous trial in respect of S.C.No.101 of 2009, before the learned District and Sessions Judge, Kanyakumari District at Nagercoil.

2.The petitioner is the first accused in S.C.No.25 of 2008, on the file of the learned Assistant Sessions Judge, Kuzhithurai, which has been registered for the offence under Section 307 of the Indian Penal Code and also the *defacto* complainant in S.C.No.101 of 2009, which has been registered for the major offence under Section 302 of the Indian Penal Code. The case in S.C.No.25 of 2008 is now pending on the file of the



Assistant Sessions Court, Kuzhithurai, whereas, the case in S.C.No.101 of 2009 is pending on the file of the learned District and Sessions Judge, Nagercoil. Since both the cases are case and counter, the learned District and Sessions Judge, Nagercoil, by an order dated 06.07.2013, made in Transfer CrI.O.P.No.4445 of 2012, passed an order to transfer the case in S.C.No.25 of 2008 pending on the file of the learned Assistant Sessions Judge, kuzhithurai to be tried by the District Court, Nagercoil and also to conduct simultaneous trial in both cases. Now, challenging the same, the present petition has been filed.

3.The learned counsel appearing for the petitioner would contend that the accused in S.C.No.101 of 2009 are the notorious elements and also two cases under Section 302 of the Indian Penal Code and three cases under Section 307 of the Indian Penal Code are pending against him. Now the case in S.C.No.25 of 2008 is transferred to the District Court, Nagercoil, there is a life threat to the petitioner. Without considering all these aspects, the learned District and Sessions Judge ordered for simultaneous trial.

4.The learned counsel appearing for the second respondent / defacto complainant would contend that since both cases are case in counter, for a fair trial, the matter has been transferred to the learned District and Sessions Judge, Nagercoil.

5.On perusal of the impugned order, it could be seen that both cases are case in counter case, arising out of the same occurrence, said to have taken place on 11.08.2007. The defacto complainant in S.C.No.25 of 2008 is the main accused in S.C.No.101 of 2009 and the defacto complainant in S.C.No.101 of 2009 is the defacto complainant in S.C.No.25 of 2008. Since both cases are case in counter case, necessarily both should be heard together by the same Court simultaneously. The learned Sessions Judge considering all these aspects, has rightly ordered to transfer the case for simultaneous trial. I find no illegality or irregularity in the order passed by the learned District and Sessions Judge. Considering the fact that the petitioner is apprehending some life threat from the accused in S.C.No.101 of 2009, if at all any such threat is made to the petitioner, it is always open to him to approach the concerned Police Station and file application seeking for Police protection. On filing such application, the police concerned is directed to enquire into the same, and provide adequate security if necessary. Since the matter is pending from the year 2012, the learned District and Sessions Judge, Nagercoil, is directed to proceed with the trial and dispose of the case, within a period of three months from the date of receipt of a copy of this order.

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

6.The Criminal Original Petition stands dismissed



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accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
2. The District and Sessions Judge, Kanyakumari,
Nagercoil.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.M.P.SENTHIL, Advocate (SR-75931[F] dated 18/07/2019)

+1 CC to Mr.H.VELAVADHAS, Advocate (SR-76083[F] dated
18/07/2019)

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17.07.2019

tsg

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