



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2019

CORAM:

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

Crl.O.P.(MD)No.12804 of 2019

and

Crl.M.P.(MD)No.7926 of 2019

WEB COPY

Jeyakaran

...Petitioner

-Vs-

1.The Inspector of Police
North Police Station,
Karaikudi, Sivagangai District.
(Crime No.60 of 2017)

2. Saravanan

... Respondent

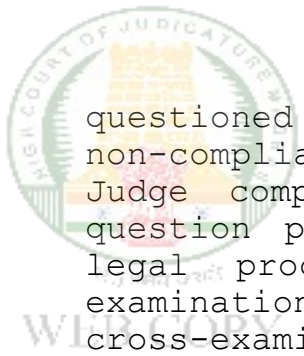
Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to withdraw the case in Spl. S.C.No.40 of 2018 on the file of the Learned Mahila Judge (Fast Track Court), Sivagangai and transfer the same to some other District Court.

For Petitioner : Mr.S.Sabani Karpura Jothi
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate(crl.side)

O R D E R

This Criminal Original Petition has been filed to withdraw the case in Spl. S.C.No.40 of 2018 on the file of the learned Mahila Judge (Fast Track Court), Sivagangai and transfer the same to some other District Court.

2.The learned counsel for the petitioner would submit that the petitioner is a sole accused. On the complaint lodged by the second respondent, the first respondent registered a case in Crime No.60 of 2017 for the offences under Sections 7 and 8 of POSCO Act, 2012. After completion of investigation, the first respondent filed the final report and the same has been taken cognizance in Spl.S.C.No.40 of 2018, for the offences under Sections 7 and 8 of POSCO Act, 2012, on the file of the learned Mahila Judge(FastTrackCourt), Sivagangai, and on 16.07.2019, prosecution side examined the witnesses (P.W.1 to P.W.3) and marked Exs.P.1 and P2. On the same day itself, prosecution witnesses were cross examined. While being so, on 30.07.2019, L.W.5 was present and examined by the prosecution as P.W.4 and Ex.P.3 also marked and on the same day, he was cross examined by the petitioner and posted the matter for further evidence. On 29.08.2019, P.W.5, who registered the F.I.R., has been examined by the prosecution, the counsel while cross examination,



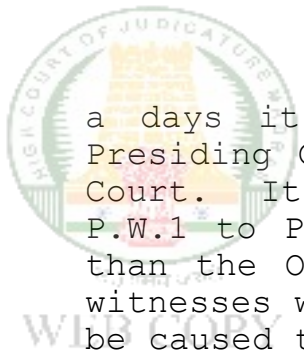
questioned about the legal violation of registering the F.I.R and non-compliance of mandatory proceedings, for that the learned trial Judge completely interfered and commended his counsel that no question put before the said witness regarding the violation of legal procedure. The trial Judge interfered in the cross examination of each and every questions put before the witness in cross-examination and therefore, the trial Judge is not acted as an impartial manner. He would further submit that the counsel, who appeared for the petitioner, could not be able to cross examine further and as such he had withdrawn his memo of appearance and he left from the case due to unwarranted interference by the trial Judge and no one Advocate is willing to appear on behalf of the petitioner, to defend him, before the trial Court. The learned trial Judge further acted in a prejudiced manner and expressed his opinion that he should convict the petitioner and also threatened that the bail will be cancelled. Therefore, the attitude of the trial Judge would not be reasonable fair and impartial trial and therefore, the petitioner sought for transfer of trial to some other District Court.

3.In this regard, on 18.09.2019, this Court called for the report from the trial Court. It is seen from the report, dated 11.10.2019 while withdrawing the memo of appearance of the counsel, who appeared on behalf of the petitioner, wherein the trial Court endorsed as follows:

"Memo perused. Endorsement made by the counsel for the accused perused. This court is not the Tape recorder to record unnecessary and unwarranted questions. Relevant questions alone to be recorded. Mechanical action or stereo type action is not in accordance with law. Hence the withdrawal is recorded."

4.It is also revealed that the case was posted on 05.09.2019 for continuation of cross examination of P.W.5, since no one was appeared on behalf of the petitioner, the case has been repeatedly adjourned (06.09.2019, 09.09.2019, 10.09.2019 and 13.09.2019). On 24.09.2019, one Advocate Mr.Jeniphet, appeared on behalf of the petitioner and submitted before the trial Court as if the transfer petition has been allowed before this Court without filing any memo of appearance as well as the memo to that effect. Therefore, the trial Court recorded that the counsel has no locus to appear on behalf of the petitioner, without filing any memo of appearance. Further without production of any interim order passed by this Court, the submission made by the counsel, who appeared on behalf of the petitioner, could not be recorded and hence, the matter was adjourned to 15.10.2019 for examination of P.W.5 and for production particulars of Crl.O.P.(MD)No.12804 of 2019 passed by this Court.

5.It is seen from the above, the petitioner is dragging on the proceedings unnecessarily making allegations as against the Presiding Officer of the trial Court, without having evidence. Now



a days it is very common for making allegation as against the Presiding Officer, to seek transfer, after reading the mind of the Court. It is also seen that the petitioner already cross examined P.W.1 to P.W.4 and only to cross examine P.W.5, who is none other than the Officer, who registered the F.I.R. Therefore, the main witnesses were already cross examined and as such no prejudice would be caused to the petitioner for continuation of the trial before the same Court. Therefore, this Court finds no merit in this petition and the present Criminal Original Petition devoid of merit. Accordingly, this Criminal Original Petition is dismissed. However, the trial Court is directed to complete the trial in Spl. S.C.No.40 of 2018, within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

Ls

To

- 1.The Mahila Judge (Fast Track Court),
Sivagangai.
- 2.The Inspector of Police
North Police Station,
Karaikudi,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.12804 of 2019
18.10.2019

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