



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2019

CORAM:

WEB COPY

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

Crl.O.P. (MD) . Nos.13293 & 16158 of 2019
and Crl.M.P. (MD) No. 8153 of 2019
in Crl.O.P. (MD) No. 13293 of 2019
and Crl.M.P. (MD) No. 9613 of 2019
in Crl.O.P. (MD) No. 16158 of 2019

M. Muthupandi ... Petitioner in both Crl.O.Ps.

Vs.

1. State through
Inspector of Police,
Kurumboor Police Station,
Tuticorin District.
(Crime No. 192 of 2015).

2. P. Jayapal ... Respondents in both Crl.O.Ps.

PRAYER in Crl.O.P. (MD) No. 13293 of 2019: Criminal Original Petition is filed under Section 482 of Cr.P.C. to transfer the case in SC. No. 64 of 2017 on the file of the learned 1st Additional Sessions Judge Tuticorin, to any other adjoin District preferably to Madurai District.

PRAYER in Crl.O.P. (MD) No. 16158 of 2019: Criminal Original Petition is filed under Section 482 of Cr.P.C. to set aside the orders passed in Crl.M.P. No. 232 of 2019 dated 06.07.2019 in SC. No. 64 of 2017 on the file of the learned 1st Additional Sessions Judge, Tuticorin, Tuticorin District.

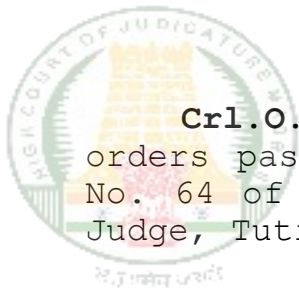
In both the Crl.O.Ps.

For Petitioner : Mr.Ka. Raamakrishnan

For Respondent-1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl. Side)

COMMON ORDER

Crl.O.P. (MD) No. 13293 of 2019 has been filed to transfer the case in SC. No. 64 of 2017 on the file of the learned 1st Additional Sessions Judge Tuticorin, to any other adjoin District preferably to Madurai District.



Crl.O.P.(MD) No. 16158 of 2019 has been filed to set aside the orders passed in Crl.M.P. No. 232 of 2019 dated 06.07.2019 in SC. No. 64 of 2017 on the file of the learned 1st Additional Sessions Judge, Tuticorin, Tuticorin District.

2. It is seen that the second respondent is a sole accused in S.C. No. 64 of 2017 the same has been taken cognizance for the offences under Sections 241, 294(b), 302, 506(ii) of IPC.

3. On perusal of records shows that the prosecution has examined P.W.1 to P.W.9 on 26.07.2019 and P.W.10 to P.W.17 were examined on 06.07.2019 and the aforesaid case was posted for further evidence. While being so, the second respondent has filed a petition in Crl.M.P. No. 232 of 2019 under Section 311 of Cr.P.C and the said petition was allowed, merely on the endorsement made by the Public Prosecutor as 'no objection' to recall the prosecution witnesses P.W.1 to P.W.4 for examination. Further, it is also seen that all the prosecution witnesses already examined and after examining the prosecution witnesses, the second respondent/accused has filed a petition for cross examination of P.W.1 to P.W.4 for the reason that the second respondent did not cross examine any of the prosecution witnesses. It is also a formal petition under Section 311 of Cr.P.C. The trial Court considering the facts and circumstances, mechanically without any reason allowed the petition only on the ground that the endorsement made by the Public Prosecutor as 'no objection'. Hence, the petitioner/defacto complainant filed the instant petition to transfer the case to another Court and also set aside the order dated 06.07.2019 passed in Crl.M.P. No. 232 of 2019.

4. The learned counsel appearing for the petitioner submitted that there are so many circumstances before the trial Court and as such he would not get a fair trial if the trial continuous in the same Court.

5. Considering the facts and circumstances, the case in S.C. No.64 of 2017 has been withdrawn from the file of the II Additional District and Sessions Court, Thoothukudi and the same is transferred to the I Additional District and Sessions Court, Thoothukudi for further trial. Accordingly, the order dated 06.07.2019 passed in Crl.M.P. No. 232 of 2019 in S.C. No. 64 of 2017 is set aside. The matter is remitted back to the I Additional District and Sessions Court, Thoothukudi for further trial. The learned I Additional District and Sessions Judge, Thoothukudi is directed to consider the matter afresh and after giving opportunities to the petitioner/defacto complainant and pass an order on merits and in accordance with law in Crl.M.P. No. 232 of 2019 in S.C. No 64 of 2017, within a period of Two weeks, from the date of receipt of the bundles.

<https://hcservices.courts.gov.in/hcservices/> above directions, the Criminal Original Petitions



are disposed of. Consequently, connected miscellaneous petitions are closed.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (CrI Side)

Sub Assistant Registrar(CS)

ksa
To

1. The I Additional District and Sessions Judge,
Thoothukudi.
2. The II Additional District and Sessions Judge,
Thoothukudi.
3. The Inspector of Police,
Kurumboor Police Station,
Tuticorin District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.M.MOHAN GANDHI, Advocate (SR-98287[F] dated 14/11/2019)

+1 CC to M/s.KA. RAMAKRISHNAN, Advocate (SR-99195[F] dated 18/11/2019)

CrI.O.P.(MD).Nos.13293 &
16158 of 2019
14.11.2019

KK/SAR/06.01.2020/3P-7C/