



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2019

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.21064 of 2018

and

Crl.M.P. (MD) Nos.9736 and 9737 of 2018

1.S.Ramesh

2.M.Maria Arputhanantham

... Petitioners/A1 & A2

Vs

V.Sumatha Devi

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to transfer the case in C.C.No.240 of 2018 pending before the Principal District Munsif cum Judicial Magistrate, Eraniel, Kanyakumari District to any other competent Court outside Kanyakumari District.

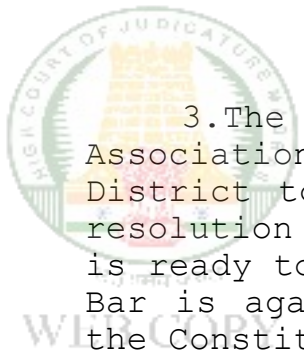
For Petitioners : Mr.T.Lajapathi Roy

For Respondent : Mr.T.Arul

O R D E R

This petition has been filed to transfer the case in C.C.No.240 of 2018 pending before the Principal District Munsif cum Judicial Magistrate, Eraniel, Kanyakumari District to any other competent Court outside Kanyakumari District.

2.The learned counsel appearing for the petitioners submitted that on the complaint lodged by one Nageshwary, an FIR has been registered in crime No.65 of 2018 for the offences under Section 379 of I.P.C., on the file of Vellichanthai Police Station. During the investigation, the respondent was called for enquiry and thereafter, after due investigation, the said complaint has been referred as Mistake of Fact. However, the respondent filed a private complaint before the learned Principal District Munsif cum Judicial Magistrate, Eraniel, Kanyakumari District as against the petitioners alleging that the petitioners harassed the respondent while conducting the enquiry in crime No.65 of 2018. The learned Judicial Magistrate has taken cognizance of the complaint in C.C.No.240 of 2018 for the offences under Sections 294(b), 447, 324 and 506(ii) of I.P.C. and Section 4 of the Prohibition of Women Harassment Act, 2002, in which, the petitioner arraigned as A1 and A2.



3.The learned counsel further submitted that the Nagercoil Bar Association requested the Superintendent of Police, Kanyakumari District to take action against A1 and A2 and since they passed a resolution not to appear on behalf of the petitioners herein, no one is ready to appear on behalf of the petitioner and the action of the Bar is against the constitution and violation of Article 22(1) of the Constitution of India.

4.He further submitted that without any counsel, the petitioner cannot conduct the fair trial and as such, he sought for the transfer of the case in C.C.No.240 of 2018 from the file of the learned Principal District Munsif cum Judicial Magistrate, Eraniel to some other Court outside of the Kanyakumari District.

5.The learned counsel appearing for the respondent submitted that the petitioners are very much represented through their respective counsel before the trial Court and no one is objecting the counsels, who appeared on behalf of the petitioners before the learned Principal District Munsif cum Judicial Magistrate, Eraniel. Therefore, the prayer sought for in this petition on the ground that no one is appearing on behalf of the petitioners is liable to be rejected.

6.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent and perused the materials available on records.

7.The petitioners are arraigned as A1 and A2 in C.C.No.240 of 2018 on the file of the Principal District Munsif cum Judicial Magistrate, Eraniel having been taken cognizance on the private complaint lodged by the respondent for the offences under Sections 294(b), 447, 324 and 506(ii) of I.P.C. and Section 4 of the Prohibition of Women Harassment Act, 2002. The only ground raised by the petitioners is that no one is ready to appear on behalf of the petitioners before the trial Court to conduct the trial.

8.However, now, it is represented by the learned counsel appearing for the respondent that both the petitioners are represented through their respective counsels viz., Vinifred Bose and M.Latha before the trial Court and as such, their fundamental right would not be affected at any cost and the petitioners can be defended the trial through their respective counsels. Further, the respondent/complainant is a lady and she has also attend the trial for each and every hearing. Furthermore, this Court dismissed the quash petition filed by the petitioners in Crl.O.P.(MD) No.22634 of 2018 to quash the criminal proceedings in C.C.No.240 of 2018 on the file of the learned Principal District Munsif cum Judicial Magistrate, Eraniel and granted the relief of dispense with the personal appearance of the petitioners before the trial Court.



9. In view of the above, this Court is not inclined to grant the relief sought for by the petitioners in this petition. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are also dismissed.

WEB COPY

Sd/-
Assistant Registrar (Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

Arul

To

The Principal District Munsif cum Judicial Magistrate,
Eraniel, Kanyakumari District

+1 CC to M/s.T.ARUL, Advocate (SR-91975[F] dated 15/10/2019)

Order made in
CRL.O.P (MD) Nos.21064 of 2018
14.10.2019

JM/23.10.2019/3P/3C