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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :26.09.2019
CORAM:
THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No. 13893 of 2017
and
Crl.M.P.(MD).Nos.9329 & 9330 of 2017

T.Jayakumar ... Petitioner

Vs.

C.Raj ... Respondent

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, to withdraw S.T.C.No.1436 of 2017, on the file of the learned Judicial Magistrate, Srivaikuntam and to transfer the same to any one of the learned Judicial Magistrate Court in Kanyakumari District.

For Petitioner : Mr.B.Brijesh Kishore
For Respondent : Mr.C.Christopher

O R D E R

This Criminal Original Petition has been filed seeking for transfer of S.T.C.No.1436 of 2017, on the file of the learned Judicial Magistrate, Srivaikuntam.

2.The petitioner is facing a private complaint initiated by the respondent under Section 138 of the Negotiable Instruments Act. This transfer petition has been filed only on the ground that the petitioner is facing threat in the hands of the respondent and therefore, the petitioner will not be able to get a fair trial before the Court below.

3.The learned counsel appearing for the petitioner submitted that fifteen cheques belonging to the petitioner were misused and several complaints have been lodged by different persons before different Courts. Since there is a threat to the petitioner in the hands of the respondent in Crl.O.P.(MD).No.13893 of 2017, the petitioner is not able to attend hearings.

4.The learned counsel appearing on behalf of the respondent submitted that the allegations made by the petitioner is false and a complaint has been given only to create a cause of action to transfer the proceedings. The learned counsel further submitted that the respondent will not cause any threat to the petitioner and he undertakes that the proceedings will be carried on in a peaceful

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manner and it will be completed within a time that can be stipulated by this Court.

5.Taking into consideration the facts and circumstances of the case, this Court is not inclined to transfer the proceedings. The respondent has undertaken before this Court that no threat will be caused to the petitioner and that this Court can fix the time limit for completion of the proceedings.

6.The presence of the petitioner is dispensed with and he shall be represented by a counsel before the Court below. The petitioner shall be present before the Court below at the time of questioning under Section 313 of the Code of Criminal Procedure and at the time of passing of judgment. The counsel representing the petitioner shall cross-examine the witnesses on the same day, they are examined in chief and the petitioner shall not dispute the identify of the witnesses. As and when the petitioner appears before the Court below, the Court below shall ensure the safety and security of the petitioner.

7.This Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in S.T.C.No1436 of 2017, within a period of two months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate, Srivaikuntam.

2. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.C.CHRISTOPHER, Advocate (SR-90005[F] dated 27/09/2019)

Crl.O.P.(MD)No. 13893 of 2017
26.09.2019

VB(17.10.2019) 2P 4C

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