



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.09.2019

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

CRL.O.P.No. 2985 of 2017

and

CrI.M.P(MD)No. 2587 of 2017

William

... Petitioner / Accused No.2

Vs.

1.The Inspector of Police,
Kaliakkavilai Police Station,
Kanyakumari District.
(Crime No. 473 of 2015) ... 1st Respondent/Complainant

2. M. Jacob ...2nd Respondent/ defacto complainant

PRAYER: Criminal Original Petition filed under Section 407 of Cr.P.C, to transfer the case in C.C. No. 239 of 2016 from the learned Judicial Magistrate No.1, Kuzhithurai to Judicial Magistrate Court, Valliyoor.

For Petitioner : Mr.S.C. Herold Singh

For Respondent-1 : Mr.K. Dinesh Babu

Additional Public Prosecutor

For Respondent-2 : Mr. S. Sivakumar

ORDER

This petition has been filed seeking to transfer the proceedings pending on the file of the learned Judicial Magistrate No.1, Kuzhithurai, in C.C. No.239 of 2016, to Judicial Magistrate Court, Valliyoor.

2. The petitioner is facing trial before the Court below for the offence under Sections 447, 294(b), 323, 506(ii) r/w 34 of IPC.

3.The main ground on which this transfer petition has been filed before this Court is that the de facto complaint in this case is a practicing Advocate at Kuzhithurai and there is a threat from the defacto complainant which prevents the petitioner from coming to



the Court. Therefore, the petitioner apprehends that he will not get a fair trial before the Court below and seeks for transfer of the proceedings.

4. Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor appearing on behalf of the first respondent police and the learned counsel appearing on behalf of the second respondent.

5. Taking into consideration the facts and circumstances of the case and the ground that has been raised by the learned counsel for the petitioner, this Court is inclined to transfer the proceedings in C.C.No. 239 of 2016, which is now pending before the learned Judicial Magistrate No.1, Kuzhithurai. The petitioner and the other accused persons will not be in a position to get a fair trial before the Court below, since they allege that there is a threat perspective.

6. In view of the above, the proceedings in C.C.No. 239 of 2016, is hereby withdrawn and transferred to the file of the Judicial Magistrate Court, Valliyoor. The case records shall be transmitted within a period of two weeks from the date of receipt of a copy of this order. The learned Judicial Magistrate, Valliyoor, immediately, on receipt of the case records, shall assign a new number to the case and shall proceed further and complete the proceedings within a period of three months thereafter.

7. With the above directions, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate Court No.I,
Kuzhithurai.
- 2.The Judicial Magistrate Court, Valliyoor.
- 3.The Inspector of Police,
Kaliakkavilai Police Station,
Kanyakumari District.

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



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

+1 CC to M/s.S.SIVAKUMAR, Advocate (SR-85738[F] dated 06/09/2019)

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-85532[F] dated
06/09/2019)

CRL.O.P.No. 2985 of 2017

05.09.2019

KK/SAR/11.11.2019/3P-7C/