

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 13.12.2019****CORAM:****THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA**Crl.O.P.(MD).No.18693 of 2019andCrl.M.P.(MD).No.10968 of 2019**WEB COPY**

1. Solomon
2. Jayanthi Solomon ..Petitioners/Accused 1 & 2

Vs.

- 1.The Sub Inspector of Police
Vadasery Police Station
Vadasery, Kanyakumari District ..Respondent / Complainant
2. Joseph Benatick @ Jose ..Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 407 of Criminal Procedure Code, to withdraw the case in STC No. 269 of 2016 on the file of the learned Judicial Magistrate No.II, Nagercoil and transfer the same to any other court outside of the Kanyakumari District.

For Petitioners : Mr.K.Guhan
For Respondents : Mrs.S. Bharathi
No.1 Government Advocate(Crl.Side)

O R D E R

This petition has been filed to withdraw the case in STC No. 269 of 2016 on the file of the learned Judicial Magistrate No.II, Nagercoil and transfer the same to any other court outside of the Kanyakumari District.

2. The petitioners are accused Nos 1 and 2 in STC No.269 of 2016. The allegations made in the affidavit is that due to personal motive, the *de facto* complainant /third respondent who is a practicing Advocate of Nagercoil Bar Association had lodged a complaint against the petitioners and others for the alleged occurrence that took place. The respondent police registered a case in Crime No.820 of 2013 for the offence under Sections 447,427,379 and 506(ii) of IPC, on 29.09.2013 and after investigation the respondent police have filed the final report before the learned Judicial Magistrate No.II, Nagercoil.

3. The learned counsel for the petitioner would submit that when the petitioners wanted to engage a counsel to appear for them before the Court below, they found that due to the pressure given by the *de facto* complainant/ third respondent, a resolution has been passed in the Advocate Bar Association at Nagercoil to the effect that, no advocate will appear for the petitioners in the criminal case. Therefore, the petitioners left with no other option, have approached this Court seeking for transfer of the proceedings to some other Court. He would further submit that this Court, in similar matters have transferred the case to the Courts in the nearby District.



4. Heard the learned counsel for the petitioners and the learned Government Advocate(Crl.Side) appearing on behalf of the first respondent.

5. Taking into consideration the facts and circumstances of the case and in order to ensure fair trial to the petitioners, this Court is satisfied that the proceedings will have to be transferred to some other Court. The proceedings in STC No. 269 of 2016 on the file of the learned Judicial Magistrate No.II, Nagercoil is withdrawn and transferred to the file of learned Judicial Magistrate, Nangeneri. The learned Judicial Magistrate No.II, Nagercoil is directed to send the entire case records within a period of two weeks from the date of receipt of a copy of this order to the learned Judicial Magistrate, Nangeneri. The learned Judicial Magistrate, Nangeneri immediately on receipt of the case records renumber the case and shall proceed further in accordance with law and complete the proceedings as expeditiously as possible

6. Accordingly, the Criminal Original Petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

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To:

- 1.The Judicial Magistrate No.II, Nagercoil
- 2.The Judicial Magistrate, Nangeneri
- 3.The Sub Inspector of Police
Vadasery Police Station
Vadasery, Kanyakumari District
4. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.GUHAN, Advocate (SR-104900[F] dated 13/12/2019)
Cr1.O.P.(MD).No.18693 of 2019
and
Cr1.M.P.(MD).No.10968 of 2019
13.12.2019

sma/08/01/2020/2p/6c