

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.26376 of 2016

CRL.M.P.No.13120 of 2016

Valarmathi

... petitioner

.Vs.

1.V.Vasu

2.V.Rajasekaran

3.V.Vijayaraghavan

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to transfer C.C.No.102/2014 on the file of the learned Judicial Magistrate No.2, Ponneri to the file of the learned Additional Makila Court, Egmore, at Allikulam Complex, Chennai-3 and on such transfer, direct the learned Additional Makila Court Egmore, Allikulam Complex, Chennai-3 to try the respondents/accused and thus render justice.

For petitioner : Mr.N.A.Ravindran

For Respondent : Mr.R.Ganesh Kumar

O R D E R

The petitioner/defacto complainant had filed this transfer petition seeking transfer of C.C.No.102 of 2014, which is pending on the file of the learned Judicial Magistrate No.II, Ponneri, Thiruvallur District to the Additional Mahila Court, Egmore, Chennai.

2. The case of the prosecution is that the petitioner married one Sundaramoorthy and she had three children. Due to misunderstanding, she left matrimonial house and came to Chennai. She stayed in Womens Hostel at Egmore, working in STD Booth in Purushawakam. At that time, the first respondent came to the petitioner's working place daily and they became friends. Thereafter, the first respondent and the petitioner decided to marry and the marriage between them took place on 03.09.1999 . Earlier to this marriage, the said Vasu/first respondent has already married one Selvarani and he had two sons and one daughter. His daughter and wife were dead. He is living with his

sons/R2 and R3. Thereafter, in the year 2012, there was some misunderstanding between the petitioner and the respondents. Due to misunderstanding, the petitioner lodged a complaint before the Social Welfare Officer under the Domestic Violence Act and thereafter, a case was registered against the respondents, which is pending trial before the learned IV Metropolitan Magistrate, Egmore, Chennai. This being so, on 28.08.2012, when the petitioner and the first respondent were at home, the second and third respondents came to the petitioner's house and abused in filthy language and had thrown stones inside the house and also attacked the petitioner with wooden log. Due to which, articles in the petitioner's house got damaged. At that time, the first respondent kept quite and instigated the second and third respondents. Hence, the petitioner lodged a complaint and a case in Crime No.563 of 2013 for offence under Sections 452, 350, 294 (b), 354, 147, 148, 506(i) IPC @ 452, 427, 294(b), 354, 506(i) IPC was registered. On completion of investigation, charge sheet was filed before the learned Judicial Magistrate-II, Ponneri in C.C.No.102 of 2014.

3. The learned counsel for the petitioner submitted that the petitioner has been chased away by the respondents and she is now living at Thiruvavur. The Domestic Violence Case is pending trial in C.C.No.517 of 2013 before the learned V Metropolitan Magistrate, Egmore, Chennai. The petitioner submitted that the Inspector of Police, Redhills filed the charge sheet and prosecuted the case against the respondents. Further, he submitted that the police was reluctant in taking action against the respondents. Thereafter, she had approached the Court and as per the direction of this Court, FIR came to be registered on 10.03.2013, after a lapse of six months. Thereafter, charge sheet was filed in this case. On 27.11.2013, the case in C.C.No.102 of 2014 was taken on file. In this case, summon was served to the petitioner on 22.11.2016. Thereafter, she appeared before the Trial Court and sought small accommodation. Since the occurrence had taken place during the year 2012, she wanted to refresh her memories. When she read over 161 statement, she was shocked to see such statement and the statements were recorded, in order to help the respondents. Hence, she filed this petition. The learned counsel further submitted that the respondents are in connivance with the Inspector of Police, Redhills. Therefore, she would not get justice. Further, when the petitioner had gone to the Court for tendering evidence, she was threatened by the respondents. Already, the Domestic Violence case is pending before the Egmore Court, Chennai. Hence, it would be appropriate to transfer C.C.No.102 of 2014, which is pending on the file of the learned Judicial Magistrate-II, Ponneri to the Additional Mahila Court, Egmore, Chennai.

4. The learned counsel for the respondents submitted that with the intention of vengeance, the petitioner lodged a complaint against the respondents. The petitioner had already left matrimonial home in the year 2007 and she had gone to her native place, Thiruvarur and she is living there. Thereafter, she lodged a complaint on 07.08.2012 and it is admitted that from the year 2007, she is living separately. While being so, on 09.03.2013, the alleged occurrence would not have happened. With the intention of the vengeance, the petitioner had lodged a false complaint. The second and third respondents were married and settled with their respective families and are also taking care of their father. Hence, they opposed the transfer petition.

5. The learned Additional Public Prosecutor submitted that on registration of FIR, investigation was conducted and charge sheet has been filed before the learned Judicial Magistrate-II, Ponneri, which was taken on file in C.C.No.102 of 2014. In the charge sheet, 10 witnesses have been cited. All the witnesses, except official witnesses, were residing in Chennai. At this stage, the transfer of the case would cause great hardship to the witnesses. The statement of the petitioner was recorded, which was read over before the petitioner and explained to her. The petitioner's allegation is that 161 Cr.P.C. Statement was not recorded as given by her, which is false. For the purpose of dragging the case and personal vengeance, she is making false allegations. Due to the pending of the above Criminal Original Petition, the trial is kept pending from the year 2014 onwards. Hence, he opposed the transfer petition.

6. Considering the submissions and on perusal of the materials, it is seen that the petitioner got married earlier and she had three children. Due to misunderstanding with her earlier husband, she left matrimonial home at Thiruvarur, came to Chennai and stayed in women's hostel. Thereafter, the petitioner married the first respondent. They were living as husband and wife. There seems to be matrimonial dispute between the petitioner and the first respondent, for which, she filed a Domestic Violence complaint. It is seen that the Domestic Violence complaint was given earlier to the present complaint and the petitioner pursued the earlier complaint. There seems to be a case pending before the Additional Mahila Court, Egmore, Chennai. It is seen that almost all the witnesses are in and around Redhills and there seems to be no threat as stated by the petitioner. In view of the same, this Court is not inclined to entertain the transfer petition. Hence, this Criminal Original petition is dismissed. Consequently, connected miscellaneous petition is also closed.

7. The trial Court is directed to give priority in disposing

C.C.No.102 of 2014 and complete the trial within a period of three months, after lifting of lockdown and beginning of normal functioning of the Courts.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The learned Judicial Magistrate No.2, Ponneri.
+1cc to Mr.N.A.Ravindran, Advocate, Sr.No.27357

CRL.O.P.No.26376 of 2016

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