



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2020

CORAM

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

CRL.O.P.No.3316 of 2020

and

Crl.M.P.Nos.1944 & 1945 of 2020

1.Siva Kumar

2.Sumitha

....Petitioners/Respondents 1 and 2

Vs.

1.M.Sudha

2.Balamurugan

3.Akila

4.Vijayakumar

5.Seethalakshmi

6.Moorthy

... Respondents 2 to 6/

Respondents 3 to 7

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to withdraw the case D.V.C.No.17 of 2019 pending on the file of the learned Judicial Magistrate, Sirkali and transfer the same to the file of any learned Judicial Magistrate's Court at Nagapattinam.

For Petitioners : Mr.S.Giri Tharan

ORDER

The Criminal Original Petition has been filed to transfer the case in DVC.No.17 of 2019 from the file of the Judicial Magistrate, Sirkali, to any other Magistrate Court at Nagapattinam.

2. At this juncture, it would be relevant to refer to the proviso to sub-section (2) of Section 407 of Cr.P.C., which reads thus:-

"2) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative:

Provided that no application shall lie to the



WEB COPY

High Court for transferring a case from one criminal Court to another criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him."

3. A reading of the aforesaid proviso would show that no application shall lie to the High Court for transferring a case from one criminal Court to another criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

4. In this case, it is not the case of the petitioners that they had already filed any transfer application before the Sessions Judge of the Nagapattinam and the same was rejected. Under the said circumstances, this petition is not maintainable. It is open to the petitioners to approach the Sessions Judge at Nagapattinam and get appropriate relief.

5. For the aforesaid reasons, this Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dna

To

1.The Judicial Magistrate, Sirkali,
Nagapattinam.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Giritharan, Advocate Sr.13005

CRL.O.P.No.3316 of 2020
and
Crl.M.P.Nos.1944 &
1945 of 2020

vg I[co]
srg 15/04/2020