

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.29356 of 2019 & 381 of 2020
and Crl.M.P.Nos.15824 & 15825 of 2019

P.Senthilkumar
S/o Pandurangan
Residing at No.13-D, Sri Krishna Apartment
Loganathan, 1st Street
Choolaimedu, Chennai - 600 094. Petitioner in
Crl.O.P.No.29356 of 2019

Vs.

S.GayathriDevi
D/o Subramanian
No.99, Tholuvapalli Street
Peddanaickenpalayam Town Post & Taluk
Salem District.Respondent
in Crl.O.P.No.29356 of 2019

S.GayathriDevi
D/o Subramanian
No.99, Tholuvapalli Street
Peddanaickenpalayam Town Post & Taluk
Salem District. Petitioner in
Crl.O.P.No.381 of 2020

P.Senthilkumar
S/o Pandurangan
Residing at No.13-D, Sri Krishna Apartment
Loganathan, 1st Street
Choolaimedu, Chennai - 600 094. Respondent in
Crl.O.P.No.381 of 2020

PRAYER in Crl.O.P.No.29356 of 2019: Criminal Original
Petition filed under Section 439 of Criminal Procedure Code, to
withdraw the case and transfer the case in S.T.C.No.46/2019 on
the file of the Special Judicial Magistrate, Attur to Fast Track
Court II, Metropolitan Magistrate Court, Allikulam, Egmore,
Chennai.

PRAYER in Crl.O.P.No.381 of 2020: Criminal Original Petition
filed under Section 439 of Criminal Procedure Code, to withdraw
the case in C.C.No.5724 of 2018 pending trial on the file of the

Hon'ble FTC-II, Metropolitan Magistrate, Egmore at Allikulam, Chennai, and to transfer the same to the Hon'ble Special Judicial Magistrate, Attur, Salem District.

In Crl.O.P.No.29356 of 2019

For Petitioner : Mr.P.Singaram

For Respondent : No Appearance

In Crl.O.P.No.381 of 2020

For Petitioner : No Appearance

For Respondent : Mr.P.Singaram

COMMON ORDER

The petitioners in both the Criminal Original Petitions are before this Court with the prayers;

(i) to withdraw the case and transfer the case in S.T.C.No.46/2019 on the file of the Special Judicial Magistrate, Attur to Fast Track Court II, Metropolitan Magistrate Court, Allikulam, Egmore, Chennai;

(ii) to withdraw the case in C.C.No.5724 of 2018 pending trial on the file of the Hon'ble FTC-II, Metropolitan Magistrate, Egmore at Allikulam, Chennai, and to transfer the same to the Hon'ble Special Judicial Magistrate, Attur, Salem District.

2.For the sake of convenience, rank of the petitioner and respondent are followed as per their rank in Crl.O.P.No.29356 of 2019.

3.It is averred in the petition that the petitioner is an accused in C.C.No.5724 of 2018 on the file of the FTC-II, Metropolitan Magistrate, Egmore, Allikulam, Chennai, and S.T.C.No.46 of 2019 pending on the file of the, Special Judicial Magistrate, Attur, Salem District, on the complaints lodged by the respondent herein.

4.According to the respondent, while she was working at the Hindustan Engineering College, Padur, Chennai, as an Assistant Professor, wife of the petitioner herein also worked as a Lecturer in Hindustan College of Arts and Science. Thereby the respondent acquainted with her and also developed friendship with her. Due to their friendship, the petitioner borrowed a sum of Rs.11,75,000/- and repayment of the same was received by the respondent in two cheques. When both the cheques were presented for collection, the same was returned as insufficient funds. After issuing statutory notice to the respondent, the respondent

initiated proceedings for the offence under Section 138 of the NI Act. It is further submitted that the same respondent filed one complaint before the Special Judicial Magistrate, Attur, Salem District, in STC No.46 of 2019 and another complaint in CC No.5724 of 2018 before the FTC Metropolitan Magistrate, Egmore Allikulam, Chennai.

5.The learned counsel for the petitioner would further submit that if the case is transferred on the file of the FTC Metropolitan Magistrate, Egmore Allikulam, Chennai, it is very difficult for the petitioner to appear before the trial Court.

6.Heard the learned counsel for the petitioner.

7.On perusal of records, the respondent has filed two complaints before the Special Judicial Magistrate, Attur, Salem District, in STC No.46 of 2019 and another complaint filed in CC No.5724 of 2018 before the FTC Metropolitan Magistrate, Egmore Allikulam, Chennai, for the offence punishable under Section 138 of the NI Act. Even in her complaint she categorically stated that she is working as a teaching faculty in Hindustan Engineering College, Padur, Chennai and the petitioner's wife also worked there as a Lecturer. Due to their acquaint the petitioner borrowed a sum of Rs.11,75,000/- on various occasions. For repayment of the same, the petitioner gave two cheques to the respondent and the said cheques were presented before the Banks. In which one cheque was presented before the Axis Bank, Vadapalani Branch, Chennai. Whereas, the cheques were returned as insufficient funds. Even then, purposefully another cheque was presented within a jurisdiction of Special Judicial Magistrate, Attur, Salem District, and lodged a complaint. Now therefore, another complaint lodged by the respondent on the presentation of the cheque before the bank within the jurisdiction of FTC Metropolitan Magistrate, Egmore Allikulam, Chennai, is manifestly to cause mental and physical harassment to the petitioner by instituting two separate cases in two separate districts.

8.Now, the respondent also sought for transfer of the C.C.No.5724 of 2018 on the file of the FTC Metropolitan Magistrate, Egmore Allikulam, Chennai, to the file of the Special Judicial Magistrate, Attur, Salem District, to have the joint trial with S.T.C.No.46 of 2019.

9.Further, the respondent has given Attur address in one complaint and another in another complaint she has given Chennai address. Therefore, it would be appropriate to transfer the case pending on the file of Special Judicial Magistrate, Attur, Salem District in STC No.46 of 2019 on the file of the FTC-II Metropolitan Magistrate, Allikulam, Egmore, Chennai, for effective trial. In view of the above, the STC No.46 of 2019 is hereby withdrawn from the file of the Special Judicial Magistrate, Attur and transferred to the file of the FTC - II

Metropolitan Magistrate, Allikulam, Egmore, Chennai, forthwith. On receipt of the entire case bundle the learned Metropolitan Magistrate, FTC - II, Allikulam, Egmore, Chennai, is directed to complete the trial in STC No.46 of 2019 and also in C.C.No.5724 of 2018 within a period of six months from the date of receipt of the bundle from the Special Judicial Magistrate, Attur, Salem District.

10. Accordingly the Criminal Original Petition No.29356 of 2019 is allowed and the Criminal Original Petition No.381 of 2020 is dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Metropolitan Magistrate, FTC - II, Allikulam, Egmore, Chennai.

2.The Special Judicial Magistrate, Attur, Salem District.

+2cc to Mr.V.T.Narendaran, Advocate in Sr no.25494

Crl.O.P.Nos.29356 of 2019 & 381 of 2020
and Crl.M.P.Nos.15824 & 15825 of 2019

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SSV(CO)
RV(02/09/2020)

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