



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 02.01.2020  
CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD).No.19341 of 2019  
and  
Crl.M.P.(MD).No.11344 of 2019

WEB COPY

1. Shojin
2. Winsh Joyal
3. Godvin Joyal

..Petitioners

Vs.

- 1.The State rep by  
The Inspector of Police  
Marthandam Police Station  
Marthandam  
Kanyakumari District  
(Crime No.402 of 2017)

... 1<sup>st</sup> Respondent/Complainant

2. Robinson Babu

...2<sup>nd</sup> Respondent/Defacto Complainant

**PRAYER:** This Criminal Original Petition has been filed under Section 407 of Criminal Procedure Code, to Withdraw and transfer the case in S.T.C.No.1564/2019 on the file of the Learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District in connection with Crime No.402/2017 on the file of the Inspector of Police, Marthandam Police Station, Marthandam, Kanyakumari District and transfer to any other Court in the nearby District such as Tirunelveli more particularly the learned Judicial Magistrate No.I, Valliyoor, Tirunelveli District and further trial proceedings forthwith

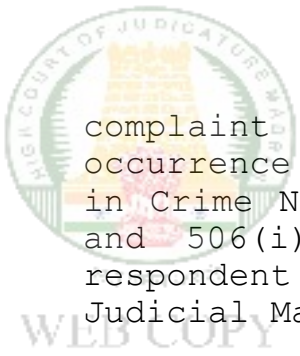
For Petitioners : Mr.J.Sankara Pandian

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 S.T.C.No.1564 of 2019 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District in connection with Crime No.402/2017 on the file of the Inspector of Police, Marthandam, Kanyakumari District and transfer to any other Court in the nearby District such as Tirunelveli more particularly the learned Judicial Magistrate No.I, Valliyoor, Tirunelveli District.

2. The petitioners are accused Nos 1 to 3 in STC No.1564 of 2019. The allegations made in the affidavit is that due to personal motive, the *de facto* complainant /second 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.402 of 2017 for the offence under Sections 294(b), 323 and 506(i) of IPC, on 09.09.2017 and after investigation the respondent police have filed the final report before the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District.

3. The learned counsel for the petitioners 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/ second 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 S.T.C.No.1564 of 2019 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District is withdrawn and transferred to the file of learned Judicial Magistrate, Valliyur. The learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District 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, Valliyur. The learned Judicial Magistrate, Valliyur 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(AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

aav

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



To:

1.The Judicial Magistrate No.I,  
Kuzhithurai, Kanyakumari District

2.The Judicial Magistrate, Valliyur, Thirunelveli District.

3.The Inspector of Police  
Marthandam Police Station  
Marthandam  
Kanyakumari District

Copy to

The Additional Public Prosecutor  
Madurai Bench of Madras High Court.

+1 CC to M/s.M.KARUNANITHI, Advocate ( SR-226[F] dated 03/01/2020 )

Cr1.O.P. (MD) .No.19341 of 2019  
and  
Cr1.M.P. (MD) .No.11344 of 2019  
02.01.2020

srk(CO)  
TR(24.01.2020) 3P 6C