

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.6777 OF 2021

AND

CRL.M.P.NO.4494 OF 2021

Azhagirisamy

... Petitioner

..Vs..

P.Ramalingam

... Respondent

Prayer :

Criminal Original Petition filed under Section 482 Cr.P.C., to transfer the case in S.T.C.No.1255 of 2019 on the file of the Learned Judicial Magistrate No.III, Pondicherry to tried along with case in C.M.P.No.817 of 2019 pending on the file of the learned Judicial Magistrate No.I Attur at Salem District.

For Petitioner : Mr.D.Dayalan

O R D E R

This petition has been filed to transfer the case in S.T.C.No.1255 of 2019 on the file of the Learned Judicial Magistrate No.III, Pondicherry to tried along with case in C.M.P.No.817 of 2019 pending on the file of the learned Judicial Magistrate No.I Attur at Salem District.

2. The petitioner herein is the accused in the case filed by the respondent under 138 NI, is pending trial in STC.No.1255 of 2019 before the Judicial Magistrate No.III, Puducherry. The petitioner purchased a property in Gengavalli, Salem District and thereafter, he has been in possession and enjoyment of the same. When he went to Mumbai for business purpose, he kept a bag containing original documents relating to the said house and blank cheques drawn on ICICI Bank in a room. His brother Sakthilingam stole the property document and cheque leaf and handed over the same to the respondent Ramalingam, who is the relative of Sakthilingam and making use of the same, he filed 138 NI against him.

3. He further submitted that the petitioner already filed a petition under 156(3) of Cr.P.C., before the Learned Judicial Magistrate No.I, Attur, on 10.07.2019. Thereafter, on 16.7.2019, CMP.No.817 of 2019 was assigned and the Court below found that this case does not warrant registration of FIR under Section 156 (3), further, with regard to the contents in the complaint and the occurrence happened on 09.05.2019, took the complaint as a private complaint under Section 200 Cr.P.C., and posted for filing of sworn statement on 28.03.2021.

4. He further submitted that in view of the issue involved in both the case are one and the same, it is appropriate that STC.No.1255 of 2019 pending on the file of the Judicial Magistrate No.III, Puducherry has to be transferred and tried along with CMP.No.817 of 2019, pending before the Judicial Magistrate No.I, Attur, Salem.

5. Considering the above submission and perused the materials, it is seen that the petition filed under Section 156 (3) Cr.P.C., is still pending and the petitioner has not yet filed sworn statement and hence no case has been pending before the Judicial Magistrate No.I, Attur. Further the issue involved in STC.No.1255 of 2019, jurisdiction therein and the Act are different from that of 156(3) petition, which is pending from the year 2019, and hence, it cannot be construed that both the cases are similar in nature.

6. In view of the same and as on date, as there is no case pending before the Judicial Magistrate No.I, Attur, this Court is not inclined to allow this petition.

7. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

सत्यमेव जयते Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dna

To

1. The Judicial Magistrate No.I Attur,
Salem District.
2. The Judicial Magistrate No.III,
Pondicherry.

3. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.6777 of 2021

AK(CO)
CS/08/07/2021



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