



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.12995 of 2021
and
Crl.M.P.No.7159 of 2021

Meena

... Petitioner

Versus

M/s.Sri Krishna Retail Fixtures and Furniture,
Represented by its Proprietor, Venkateshan,
S/o. Paneer, 3/328, Bharathiyar Nagar,
Avalapalli Road,
Hosur Taluk, Krishnagiri District.

... Respondent

Criminal Original Petition filed under Section 407 of the Code of Criminal Procedure, to withdraw the case in S.T.C.No.12 of 2021 from the file of the learned Judicial Magistrate, FTC, Hosur and transfer it to the learned Judicial Magistrate, Karaikudi.

For Petitioner : Mr.T.Augustine Ebenezer
For Respondent : Mr.Damodaran,
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed seeking a direction to withdraw the case in S.T.C.No.12 of 2021 from the file of the learned Judicial Magistrate, FTC, Hosur and transfer it to the learned Judicial Magistrate, Karaikudi.

2.The petitioner is the accused in S.T.C. No. 12 of 2021, who is facing trial for the offence under Section 138 of the Negotiable Instruments Act, 1881, based on a private complaint given by the respondent/M/s.Sri Krishna Retail Fixtures and Furniture, Krishnagiri.

3.The petitioner filed this petition to transfer the case in STC.No.12 of 2021, since the petitioner belongs to Sivagangai District and the respondent is from the Krishnagiri District. The case had been filed before the Fast Track Court, Hosur, hence, the petitioner being a lady, she finds it difficult to travel around 600 km for each hearing.



4.Further, the contention of the petitioner is that the respondent is running a furniture shop as well as interior decorating works. The petitioner herein had approached the respondent for interior work for her property. Due to which, there is some dispute in payment of money, a cheque issued by her for the payment. Further, she submitted that she has got a good case of succeeding.

5.On perusal of the materials, in the typed set of papers, it seems that earlier the petitioner herein approached this Court by filing Crl.O.P.No.4781 of 2021 and sought a direction to call for the records in STC.No.12 of 2021 pending before the Trial Court. By order dated 12.03.2021, her quash petition was disposed of with a direction to complete the trial proceedings in STC.No.12 of 2021, within a period of six months from the date of receipt of that order.

6.Earlier to it, the petitioner filed a Crl.O.P.No.1644 of 2020, sought a direction to direct the Inspector of Police, Karaikudi not to harass her on the guise of enquiry. This Court passed an order dated 31.01.2020, prior to the respondent herein filing a case under Section 138 of Negotiable Instruments Act. This Court considered the same had given police protection to the petitioner, thereafter, the complaint Under Section 138 of N.I., Act filed. It is seen that this Court in Crl.O.P.4781 of 2021 finding no merits in the contention of the petitioner disposed the quash petition and directed the trial court to complete the trial within six months. At this stage, the present transfer petition is filed before this Court. This petition is yet another tactics adopted by the petitioner to drag on the proceedings and this Court is not inclined to entertain the same.

7.The petitioner at this stage prays for dispensation of her personal appearance before the Trial Court. In view of the above, this Court is dismissing the petition with a direction to the Trial Court to follow the guidelines laid down in a case, Bhaskar Industries Vs. Bhiwani Denim & Apparels Ltd., and others reported in (2001) 7 SCC 401 by the Apex Court, wherein it held that the presence of the accused need not to be insisted on all hearing dates, in case of Section 138 of N.I., Act cases, where the accused are to travel long distance. Hence, the petitioner is exempted from the appearance before the Trial Court.

8.The petitioner is directed to appear before the Trial Court for the hearings for initial questioning, thereafter, for questioning under Section 313 of the Code of Criminal Proceedings and to receive Judgment. Further, the petitioner is directed to file an affidavit incorporating that she will not



raise any dispute of identity, the recording of the evidence in her absence and her Advocate would represent on behalf of her, during the trial. The cross-examination of the witnesses shall be done then and there without asking time and will not be reason or cause for protracting the Trial.

9.Further, it is seen that on 12.03.2021, this Court had issued a direction to complete the trial within a period of six months. Thereafter, some restrictions imposed in functioning of Trial Courts, due to the second wave of pandemic, the six months time granted to the Trial Court is extended for a further period of five months i.e., from August 2021 to December 2021. It is made clear that the trial in the case in STC.No.12 of 2021, to be completed by December, 2021. This five month period is only an outer limit.

10.With the above observations and directions, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

klt

To

1.The Judicial Magistrate
FTC, Hosur

2.The Judicial Magistrate
Karaikudi

CRL.O.P.No.12995 of 2021
and
Crl.M.P.No.7159 of 2021

LN(CO)
SP(16/08/2021)