



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE **R.THARANI**

CrI.O.P.(MD)No.2863 of 2021

and

CrI.M.P(MD) .No.1528 of 2021

WEB COPY

M.Jegatha

... Petitioner

Vs.

State through Inspector of Police,
All Women Police Station,
Kanyakumari District,
Kanyakumari.
(Crime No.1 of 2018)

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C to transfer the criminal case in CC.No.13 of 2019 on the file of the Additional Mahila Court, Magistrate Level, Nagercoil, Kanyakumari District to Additional Mahila Court, Tirunelveli District, Tirunelveli or any other appropriate Court at Tirunelveli District.

For Petitioner	: Mr.KA.Raamakrishnan
For Respondent	: Mr.S.Chandrasekar
	Additional Public PROsecutor

ORDER

This petition is filed to transfer the criminal case in CC.No.13 of 2019 pending before the Additional Mahila Court, Magistrate Level, Kanyakumari District, Nagercoil to Additional Mahila Court, Tirunelveli, Tirunelveli District or any other appropriate Court in Tirunelveli District.

2.On the side of the petitioner it is stated that the petitioner has filed a complaint against seven accused. There is a specific overt act against A6 and A7, who are Advocates. Even in the FIR specific allegation was made against A6 and A7. But, the respondent deleted A6 and A7 in the charge sheet. The Additional Mahila Court (Magistrate Level) Nagercoil is having a duty to send notice to the defacto complainant under Section 173 of the Code of Criminal Procedure, but the Court failed to issue such notice to the defacto complainant. The petitioner was forced to give evidence even during the lock-down period. Only on that date, the petitioner came to know that A6 and A7 were deleted in the charge sheet. Since the Court failed to send notice to the petitioner and the Court insist the petitioner to be examined even during the lock down period, the petitioner is not having faith in the concerned Court and prayed the case to be transferred to the some other Court.



3.On the side of the respondent it is stated that under Section 319 of the Code of Criminal Procedure it is the duty of the Magistrate to decide whether the accused 6 and 7 are to be added or not. The Magistrate is having the power to include A6 and A7.

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4.A perusal of the records reveals that the name of A6 and A7 are shown as accused in the FIR at Column No.7. Seven persons are named as accused in the FIR, but the charge sheet was filed only against five persons. It is seen that no notice under Section 173 of Code of Criminal Procedure was sent to the petitioner. It is stated that A6 and A7 are practicing Advocates.

5.In the above circumstances, this case is transferred to the Court of the Judicial Magistrate (Additional Mahila Court), Tirunelveli. The Judicial Magistrate (Additional Mahila Court), Tirunelveli is directed to issue notice to the petitioner under Section 173 of Code of Criminal Procedure and to decide the issue under Section 319 of the Code of Criminal Procedure as a preliminary issue and then, to proceed with the case in accordance with law.

6.With the above direction, the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Rmk

Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate (Additional Mahila Court),
Tirunelveli

2.The Additional Mahila Court,
Magistrate Level, Nagercoil,
Kanyakumari District



3.The Inspector of Police,
All Women Police Station,
Kanyakumari District,
Kanyakumari.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Registrar(Judicial)
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.KA.RAAMA KRISHNAN, Advocate (SR-7171[F] dated
25/02/2021)

Crl.O.P. (MD)No.2863 of 2021
24.02.2021

VB (12.03.2021) 3P 7C