



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2021

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGOVAN

WEB COPY

Crl.O.P. (MD) No.4245 of 2019
and Crl.M.P. (MD) No.2568 of 2019
(Through Video Conference)

Merlin Jacob

... Petitioner

Vs.

Krishnamoorthy

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to transfer the case in STC No.193 of 2016 on the file of the Learned Judicial Magistrate No.1, Padmanabhapuram to any one of the Judicial Magistrate Court, Tirunelveli.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.C.K.M.Appaji

O R D E R

This Criminal Original Petition has been filed seeking for transfer of STC No.193 of 2016 on the file of the Learned Judicial Magistrate No- I, Padmanabapuram to any other Magistrate Court for disposal.

2. The case of the petitioner is that the respondent was working in the office of the petitioner for long time and after shifting his office, it was found that some of the cheques were misplaced. He could not trace out those cheque books and documents. The respondent, thereafter suddenly stopped attending the office of the petitioner. He studied law and later, filed a complaint under Section 138 of the Negotiable Instruments Act against the petitioner stating that he had borrowed a sum of Rs.15,00,000/- on 10.11.2014 which is a false complaint.

3. According to the learned counsel for the petitioner, the respondent, is a practicing Advocate before the Padmanabapuram Court, Kanyakumari District. So, if the Trial is conducted before the Padmanabapuram Court, fair trial may not be possible and also there is a threat from the side of the respondent. One John Baskar, learned counsel filed vakalat for the petitioner and later due to the pressure made by the Advocate Association, he has also given change of vakalat. Even a new advocate is not in a position to appear before the Court to conduct the case for the



petitioner. Hence, on that ground, the petitioner seeks for transfer.

4. When the matter came up for hearing, the learned counsel for the petitioner would submit that even after giving a change of vakalat by the concerned Advocate appearing for him, he is not in a position to appear before the concerned Court and hence not able to conduct the matter because there is a threat from the respondent's side, who being an Advocate practicing in that Court. It is also submitted that the application under section 311 Cr.P.C. came to be dismissed by that Court. In such circumstances, fair trial is not possible at the hands of Padmanabapuram Judicial Magistrate Court, Kanyakumari District and therefore, the case must be transferred.

5. Learned counsel for the respondent would submit that there is no such threat and he is also not going to give any obstruction to the learned counsel for the petitioner when he appear before the Court and conduct the matter. He also submitted that the application filed under 311 Cr.P.C. by the petitioner came to be dismissed by that Court, as it lacks merits.

6. Learned counsel for the respondent also undertook that no threat or obstruction will be made to the petitioner in future also. Recording the undertaking made by the learned counsel for the respondent, this petition is disposed of and if any difficulty or trouble is faced by the writ petitioner in future, he can approach this Court for appropriate orders .

7. With this liberty the petition is disposed of. It is also submitted by the learned counsel for the petitioner that he is going to file a revision or Criminal original petition against the dismissal order by the trial Court. This Court is of the view that such liberty is always available to the petitioner and it need not be given by this Order.

8. With this direction, this Criminal Original Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-20130[F] dated 24/06/2021)

Order made in
Crl.O.P. (MD) No.4245 of 2019

Dated:
22.06.2021

CN(06.07.2021) 3P 3C