



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.19396 of 2021

Karunakaran

... Petitioner

Vs.

1.State represented by  
The Inspector of Police,  
Town Police Station,  
Sivagangai,  
Sivagangai District.

2.Saratha  
3.Iyappan  
4.Karthi  
5.Richard  
6.Yaccobu  
7.Vijay  
8.Muthukumar  
9.Muthaiah Ambalam  
10.Pandi  
11.Ravi  
12.Veerapandi @ Muthupandi  
13.Murugeshwari  
14.Ramya  
15.Thangavel  
16.Prabu

... Respondents

**Prayer:** This Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the learned Chief Judicial Magistrate, Sivagangai to withdraw the case in S.C.No.114 of 2019 on the file of the Chief Judicial Magistrate, Sivagangai and transfer the said case to the file of the Special Court (PCR) at Sivagangai in Crl.M.P.No.2171 of 2017 and both the cases have to be conducted trial jointly.

For Petitioner  
For Respondents

: Mr.PR.Boomee Rajan  
: Mr.M.Sakthi Kumar,  
Govt. Advocate (Crl. Side) for R1.



**O R D E R**

Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the first respondent.

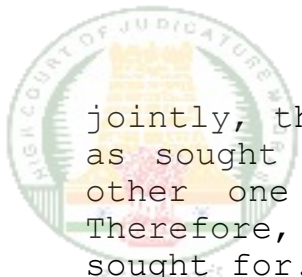
2.The second respondent herein namely, Saratha is the defacto complainant in Crime No.738 of 2012 registered on the file of the first respondent. The said case was investigated and final report was filed and it is presently pending trial in S.C.No.114 of 2019 on the file of Chief Judicial Magistrate, Sivagangai. The trial in the said case is to commence on 09.12.2021. The petitioner is figuring as the sole accused in the said case.

3.At this stage, the petitioner herein has filed this criminal original petition seeking transfer of the said case from the file of the Chief Judicial Magistrate, Sivagangai to the file of the Special Court (PCR), Sivagangai for joint trial with Crl.M.P.No.2171 of 2017.

4.According to the petitioner, he is the complainant in Crl.M.P.No.2171 of 2017 and that the private respondents herein are figuring as accused therein. Since they are case and counter case, they will have to be necessarily tried jointly.

5.I am not persuaded by the said submission of the learned counsel for the petitioner. The petitioner filed Crl.M.P.No.7560 of 2012 before the Judicial Magistrate No.I, Sivagangai. Direction under Section 156(3) of CrPC was issued. Pursuant to the said direction, Crime No.111 of 2013 was registered by the first respondent. After investigation, final report was filed referring the case as 'mistake of fact'. RCS notice was issued to the petitioner herein and the petitioner filed protest petition. This protest petition was numbered as Crl.M.P.No.2171 of 2017 and transferred to the Special Court.

6.It is obvious that as on date, the protest petition filed by the petitioner herein has not culminated in favour of the petitioner. The Court concerned has not rejected the final report filed by the first respondent in Crime No.111 of 2013 nor has it treated the said protest petition as a private complaint nor has it ordered for fresh investigation in the matter. In these circumstances, the question of joint trial does not arise. I have to necessarily fault the petitioner for not having approached the Court immediately. Admittedly, the petitioner filed the protest petition way back in the year 2017. He has chosen to wait till now for filing this criminal original petition. He should have filed a criminal original petition much earlier for directing the Court concerned to take a decision on his protest petition. The very purpose of filing this criminal original petition appears to avoid the trial that is to commence against the petitioner on 09.12.2021. If there are two independent cases pending and in the interest of justice or as per procedure, they have to be tried together or



jointly, then, this Court will be justified in issuing the direction as sought for. As on date, there is only one case pending. The other one is still pending at the stage of protest petition. Therefore, I do not find it appropriate to grant any relief as sought for. This criminal original petition stands dismissed.

WEB COPY

Sd/-

Assistant Registrar (T&P)

// 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 Chief Judicial Magistrate,  
Sivagangai.
- 2.The Special Court (PCR),  
Sivagangai.
- 3.The Inspector of Police,  
Town Police Station,  
Sivagangai,  
Sivagangai District.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

Crl.O.P(MD)No.19396 of 2021  
08.12.2021

RJ(CO)  
GC(20.12.2021) 3P 5C