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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3591 of 2020

&

Crl.M.P.No.2094 of 2020

S.Praveen Kumar

... Petitioner/Defacto Complainant

Vs.

1.The Inspector of Police,
R9, Valasarawakkam Police Station,
Valasawakkam,
Chennai - 600087.

2.M/s.S.R.M.Dental College,
Represented by its Dean
S.R.M.Dental College,
Ramapuram, Chennai - 600 089.

3.Dr.M.R.Balasubramaniam (Deceased)

4.VivekPandian

5.Venkatakrishnan

6.Sethupathi

7.Karthikeyan

8.Alagappan

9.Vivekanandan

... Respondents/Accused

Prayer: Criminal Original Petition filed under sections 407 & 482 of Criminal Procedure Code, to withdraw the case in S.C.No.29 of 2014 pending on the file of the additional district and sessions judge at Poonamallee and to transfer the same to the special court designated to deal with cases involving offences under the protection of civil rights act and the schedule casts and schedule tribes (prevention of atrocities) act.



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For Petitioner : Mr.G.A.Thiyagarajan

For Respondents: Mr.A.Gopinath,
Government Advocate (Crl.Side)
For R1

Mr.A.M.Rahamath Ali
For R4

O R D E R

This petition has been filed to withdraw the case in S.C.No.29 of 2014 pending on the file of the learned Additional District and Sessions Judge at Poonamallee and to transfer the same to the Special Court designated to deal with cases involving offences under the Protection of Civil Rights Act and the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act.

2. The petitioner is the complainant. He filed a private complaint before the learned Judicial Magistrate II, Poonamallee alleging that the provisions of SC & ST (Prevention of Atrocities) Act would also stand attracted with the provisions of the Protection of Civil Rights Act and based on the said complaint, it was taken on file by the Sessions Court for trial in S.C.No.29 of 2014. Thereafter, it was made over to the learned Additional District and Sessions Judge II, Poonamallee. Pending trial, the petitioner filed this petition seeking transfer of entire trial to the file of Special Court designated to deal with cases involving offences under the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act.

3. The respondents 2 to 9 herein were charged for the offences punishable under Sections 202, 307, 325, 340, and 506 (ii) r/w Section 34 of IPC and Section 7(D) of the Protection of Civil Rights Act, 1955 r/w Section 6, r/w Section 4 of Tamil Nadu Prohibition of Ragging Act, 1997. Thereafter, the respondents 2 to 9 were not charged for the offences under the provisions of SC & ST (Prevention of Atrocities Act). Those offences can be tried only by the Sessions Court and need not be transferred to the file of the Special Court designated to deal with cases involving offences under the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act.

4. That apart, the learned Counsel for the respondents submitted that the complainant never appeared before the learned Judge and it is pending cause only in the absence of the complainant, without proceeding to trial.



5. In fact, the learned Counsel for the 4th respondent submitted that he filed a quash petition before this Court to quash the proceedings in S.C.No.29 of 2014 on the file of the learned Additional District & Sessions Judge - II, Poonamallee in CrI.O.P.No.18929 of 2019 and the same was dismissed by this Court on 22.08.2019, directing the trial Court to complete the trial within a period of four months from the date of receipt of copy of the Order. However, the trial Court has not taken the case for trial for the reason that one after one was absenting before the trial Court.

6. That apart, Section 15 of the Protection of Civil Rights Act, 1955 states that every offence punishable under this Act shall be cognizable and every such offence, except where it is punishable with imprisonment for a minimum term exceeding three months, shall be tried summarily by a Judicial Magistrate of the First Class in a metropolitan area by a Metropolitan Magistrate in accordance with the procedures specified in the Criminal Procedure Code. Therefore, the trial Court has no jurisdiction to try the case.

7. In view of the above, this Court is not inclined to transfer the case on the file of the learned Additional District and Sessions Judge at Poonamallee, to the Special Court designated to deal with cases involving offences under the Protection of Civil Rights Act and the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act. Hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

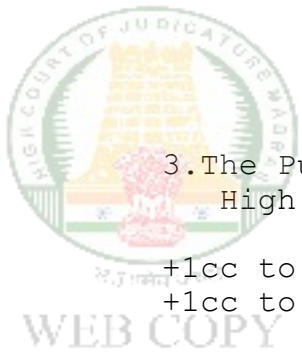
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Sub Assistant Registrar

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To

- 1.The Additional District
and Sessions Judge,
at Poonamallee.
- 2.The Inspector of Police,
R9, Valasarawakkam Police Station,
Valasawakkam,
Chennai - 600087.



3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.M.Rahamath Ali, Advocate, S.R.No.35399

+1cc to Mr.G.A.Thiyagarajan, Advocate, S.R.No.38406

Cr1.O.P.No.3591 of 2020
&
Cr1.M.P.No.2094 of 2020

GJ(CO)
SB(28/06/2022)