



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2022

CORAM

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.2109 of 2022

in

Crl.M.P(MD)No.1576 of 2022

1. M.Manoharan
 2. M.Murugesan
 3. S.Suresh Babu
- ... Petitioners/Accused Nos.3 to 5

Vs.

1. The State represented by
The Inspector of Police,
District Crime Branch,
Dindigul,
Dindigul District.
(Crime No.31 of 2019) ... 1st Respondent/ Complainant
2. Monika ... 2nd Respondent/Defacto Complainant

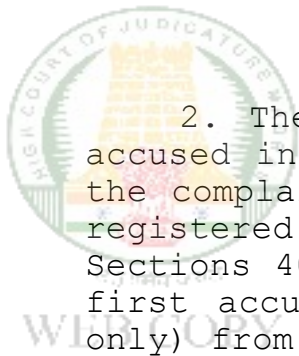
Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to pass an order to withdraw and transfer the case in C.C No.118 of 2021 on the file of the learned Judicial Magistrate Court No.II, Dindigul, Dindigul District and transfer to any other Court in the nearby District, such as, Madurai for further trial proceedings forthwith.

For Petitioners : Mr.S.Palani Velayutham
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor (Criminal Side)
for R.1

Mr.J.Lawrance for R.2

ORDER

This Criminal Original Petition has been filed seeking a direction to transfer the case in C.C No.118 of 2021 on the file of the learned Judicial Magistrate Court No.II, Dindigul, Dindigul District, to any other Court in the nearby District, such as, Madurai.



2. The case of the prosecution is that there are totally six accused in which the petitioners are arrayed as Accused 3 to 5. On the complaint lodged by the second respondent, the first respondent registered a case in Crime No.31 of 2019 for the offences under Sections 406, 420, 466, 468 and 471 IPC, on the allegation that the first accused forwarded a sum of Rs.4,00,000/- (Rupees Four Lakhs only) from the second respondent with an undertaking that it will be repaid within ten days. The first accused also executed a promissory note in favour of the second respondent. However, the first accused failed to repay the money and as such, the second respondent filed the suit for recovery of money by engaging her counsel by name, M.Selvakumar. After filing the said case by the defacto complainant / Second respondent, the same was taken on file by the said Court as O.S.No.291 of 2018. It was decreed in favour of defacto complainant / the second respondent. Pursuant to the decree, an attachment order was passed as against the first accused in the execution proceedings in respect of the property comprised in Survey No.13/28C1 situated at Vellodu Village, Aathur Taluk, Dindigul District measuring to an extent of 25.41 cents belonging to the first accused. All the other Advocates who are arrayed as accused 2 to 6 conspired together in putting spokes on the wheel of attaching the said property and created a fake document. As such, they made settlement to the first accused with regard to the said property. The said documents were created by the first accused for not making the property to be auctioned and they created the documents which they signed in the name of the second respondent and her counsel. Thereafter, they filed the said fake document on 24.04.2019 before the Principal Sub Court, Dindigul in I.A.No.1 of 2019. They already misled the Court below and made the petition to be taken on file with regard to removal of attachment by the Court concerned. Therefore, the second respondent lodged a complaint and after completion of investigation, final report has been filed and the same has been taken cognizance in C.C.No.118 of 2021 and it is pending for trial on the file of the learned Judicial Magistrate No.II, Dindigul.

3. The learned counsel appearing the petitioner would submit that the petitioners are being Advocates practicing in the very same Court premises, if the trial is proceeded as against them they cannot practise in any other cases.

4. The learned counsel appearing for the second respondent submitted that they are not even Advocates and they claimed to be Advocates and filed this petition. Though the petitioners are Advocates practicing in the same Court, they committed very serious offences, that too, fabricating the documents and filed before this Court, as if the defacto complainant and the first accused entered into compromise. That apart, it is not the ground for transfer of trial and once the petitioners have committed offence, they have to face the trial. Therefore, this Court finds no merit in this



petition. As such, this Court is not inclined to transfer the case pending in C.C.No.118 of 2021 on the file of the learned Judicial Magistrate No.II, Dindigul.

5. Accordingly, this Criminal Original Petition is dismissed. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

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 Court No.II,
Dindigul,
Dindigul District.
2. The Inspector of Police,
District Crime Branch,
Dindigul,
Dindigul District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-12636[F] dated 17/03/2022)

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RD(31.03.2022) 3P 5C