



Crl.O.P.(MD) No.7947 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.07.2022

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.7947 of 2022

Thangarani

... Petitioner/ Defacto complainant

Vs

1. The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.

2. Jeyachandran

... Respondents/Respondents

PRAYER: Criminal Original Petition filed under Section 407 of Cr.P.C, praying to transfer the case in C.C.No.169 of 2015 on the file of the learned Judicial Magistrate No.1, Kuzhithurai to learned Judicial Magistrate, Valliyoore or any other Judicial Magistrate, Tirunelveli District.

For Petitioner : Mr.S.Muniyandi
Advocate.

For R1 : Mr.R.Suresh Kumar
Government Advocate (Crl.Side)

For R2 : Mr.B.Brijesh Kishore



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ORDER

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This petition is filed to transfer the case in C.C.No.169 of 2015 on the file of the learned Judicial Magistrate No.1, Kuzhithurai to learned Judicial Magistrate, Valliyoor or any other Judicial Magistrate, Tirunelveli District.

2.The learned counsel appearing for the petitioner submitted that based on the complaint given by the petitioner against the second respondent, a case has been registered in Crime No.810 of 2014, dated 04.12.2014 for the offences under Sections 294(b), 452, 323 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. The case has been investigated and final report was filed and taken on file in C.C.No.169 of 2015 on the file of the Judicial Magistrate No.I, Kuzhithurai, which is pending for trial. The second respondent is a practising Advocate before the learned Judicial Magistrate No.I, Kuzhithurai. Being the practicing advocate, there is a possibility to attack the petitioner if she appeared before the concerned court during trial. Hence, the petitioner is unable to produce any witnesses for conducting trial. Therefore, this petition has been filed seeking transfer the case in C.C.No.169 of 2015 on the file



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of the learned Judicial Magistrate No.1, Kuzhithurai to any other Magistrate.

3. The learned Government Advocate (Crl Side) appearing for the first respondent submitted that so far trial is not commenced.

4. The learned counsel appearing for the second respondent submitted that the second respondent has not threatened the defacto complainant/petitioner and not obstructed to produce the witnesses before the trial Court and further stated that in the Bar Association, there is no resolution has been passed by the members for not to represent on behalf of the complainant.

5. In these circumstances, the learned counsel for the second respondent said no objection to transfer the case from the Judicial Magistrate No.I, Kuzhithurai, to the learned Judicial Magistrate, Padmanabhapuram, which is 20 kilometers away. The learned counsel for the petitioner also accepted the said suggestion of the second respondent. Accordingly, no problem will arise between both the parties.



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6. I have considered the submissions and it is seen from the records that the petitioner/ defacto complainant gave a complaint against the second respondent and a case has been registered in Crime No.810 of 2014, for the offences under Sections 294(b), 452, 323 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. After investigation, final report had been filed by the first respondent police and the same had been taken on file in C.C.No.169 of 2015 by the learned Judicial Magistrate No.1, Kuzhithurai. Now, the complainant seeks to transfer the said case to some other Judicial Magistrate Court at Tirunelveli District. Since the second respondent is a practising advocate before the learned Judicial Magistrate No.I, Kuzhithurai, the petitioner is unable to produce any witness for conducting trial. Though, the learned counsel for the second respondent also denied the allegation of the petitioner, any how he has not raised any objection to transfer the case from Judicial Magistrate No.I, Kuzhithurai, to the Judicial Magistrate, Padmanabhapuram, which is 20 kilometers away.



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7. Recording the said submissions, it is hereby ordered to withdraw the case in C.C.No.169 of 2015, on the file of the learned Judicial Magistrate No.I, Kuzhithurai and the same is transferred to the file of learned Judicial Magistrate, Padmanabhapuram. The Judicial Magistrate, Padmanapuram is directed to dispose the case as early as possible after receiving the entire records from the learned Judicial Magistrate No.I, Kuzhithurai. The learned Judicial Magistrate No.I, Kuzhithurai is hereby directed to send the entire records to the Judicial Magistrate, Padmanabhapuram for disposal of the case and report the same.

8. With the above direction, this Criminal Original Petition is allowed.

12.07.2022

Internet: Yes./No
Index: Yes/no
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To

1. The Judicial Magistrate No.I,
Kuzhithurai.
2. The Judicial Magistrate,
Padmanabhapuram
3. The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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V.SIVAGNANAM, J.

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ORDER IN
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