



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17/02/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.8086 of 2019

and

Crl.MP (MD)Nos.5006 and 5007 of 2019

WEB COPY

1.Mr.S.Ramesh

2.Mr.J.R.Prasadkumar

: Petitioners/A1 and A2

Vs.

Mr.R.Jeyakumar

: Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C. to transfer the case in C.C No.29 of 2019 pending on the file of the District Munsif-cum-Judicial Magistrate, Boothapandy, Kanyakumari District to any other competent court outside Kanyakumari District.

For Petitioners

: Mr.T.Lajapathi Roy

For Respondent

: Mr.N.Dilip Kumar

O R D E R

This petition has been filed by the petitioners seeking direction to transfer the case in C.C No.29 of 2019 pending on the file of the District Munsif-cum-Judicial Magistrate, Boothapandy, Kanyakumari District to any other competent court outside Kanyakumari District.

2.The case of the petitioners in brief:-

The petitioners are facing the charges in CC No.29 of 2019 on the file of the District Munsif-cum-Judicial Magistrate, Boothapandy, Kanyakumari District. The Secretary of the Nagercoil Bar Association by name R.Jayakumar has lodged a complaint. So on the basis of the private complaint, now the petitioners are facing the charges for the offences under sections 294(b), 352, 323, 341, 506(ii), 166 IPC and section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act. In the complaint, it has been falsely stated that on 11/05/2017, at about 12.15 pm, when the respondent came to the police station, where the petitioners, who are the police officials, illegally detained him, used filthy language, damaged the bike and assaulted and also criminally



intimidated him. Since the Bar Association of Nagercoil passed resolution restraining their Members from appearing for the petitioners, they are not in a position to defend their case in a proper manner. The Nagercoil Bar Association also preferred a complaint on 22/02/2017 to the Superintendent of Police, Nagercoil, for taking necessary action against them. So the case is pending before the Judicial Magistrate, Boothapandy and it must be transferred to the Judicial Magistrate, Valliyoor.

3.The counter of the respondent was also filed stating that the respondent is a Member of the Nagercoil-Kanyakumari Bar Association and in respect of the District Munsif-cum-Judicial Magistrate, Boothapandy, a separate Bar Association is also functioning. None restrained any Members of the Association from appearing the case to defend the petitioners. Originally, one Mr.Vinifred Bose was appearing on behalf of the petitioners. Later, he withdrew his appearance. Thereafter, the case was transferred to the Judicial Magistrate, Boothapandy and the petitioners are appearing regularly and during the official duty in various courts in Nagercoil, no untoward incident took place so far.

4.A report with regard to the allegation made in the petition from the Judicial Magistrate, Boothapandy has been called for and for that, he submitted a report stating that originally, the case was tried by the Judicial Magistrate, Eraniel and later, it was transferred to the present court namely District Munsif-cum-Judicial Magistrate, Boothapandy as per the order of the Principal District Judge, Kanyakumari, made in Crl.MP No.1484 of 2018, dated 06/06/2018. It is further submitted that the Bar Association has not passed any resolution restraining the Bar Members from appearing on behalf of the petitioners.

5.Now whatever may be, now it appears that no resolution has been restraining the Members of the Boothapandy Bar Association from appearing on behalf of the petitioners. Since the Bar Association has not passed any resolution, as stated above, the judgement relied on in the case of **A.S.Mohammed Rafi Vs. State of Tamil Nadu [2011(1) CTC 602]** does not apply to the facts of this case. I find no merit in this petition.

6.Accordingly, this criminal original petition is **dismissed**. However, considering the oldness of the case, there shall be a direction to the trial court to expedite the trial process and complete the same within a period of three months from the date of receipt of a copy of this order. The petitioners may engage an Advocate on their behalf. If any trouble arises during the trial process with regard to the appointment of the Advocate, the Judicial Magistrate, Boothapandy is at liberty to inform this court about the



development. On the basis of the report to be submitted by the Judicial Magistrate, Boothapandy in the event of the above said eventuality, further orders will be passed.

7. With the above said direction and liberty, this criminal original petition stands **dismissed** at present. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

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:

The District Munsif-cum-Judicial Magistrate,
Boothapandy, Kanyakumari District.

Copy to:

The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-7228[F] dated 18/02/2022)

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RD(04.03.2022) 3P 4C