

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.16722 of 2022

and

CrI.M.P(MD)No.11178 of 2022

N.Muthukaruppan

... Petitioner/Accused

Vs.

1.The State rep. by

The Sub Inspector of Police,
Sambavar Vadakarai Police Station,
Kadayanallur Taluk,
Tenkasi District.

...1st Respondent/Complainant

2.D.Arumugam

...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to pass necessary order permitting the Petitioner to withdraw the C.C.No.270 of 2010 on the file of the Judicial Magistrate, Shenkottai, Tenkasi District and transfer the same to any other Judicial Magistrate Court at Tirunelveli District.

For Petitioner : Mr.V.R.Venkatesan

For R1 : Mr.T.Senthilkumar

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to withdraw C.C.No.270 of 2010 on the file of the learned District Munsif cum Judicial Magistrate, Shengkottai, Tenkasi District and to transfer the same to any other Judicial Magistrate Court at Tirunelveli District.

2.It is the contention of the learned Counsel for the Petitioner that after closing of defence witnesses, the case was posted for arguments. Subsequently, the Presiding Judge was on leave and there was adjournment due to boycott, for which the accused or the Counsel for the accused is not responsible. The learned District Munsif cum Judicial Magistrate, Shengkottai, posted the case for judgment without affording opportunity to the Petitioner to advance arguments on behalf of the accused. As per Section 314 of Court of Criminal Procedure Code, the learned District Munsif cum Judicial Magistrate, Shengkottai has to hear the arguments. Instead of giving opportunity to the petitioner to argue the case, the learned Judge had posted the case for judgment. Though the learned Counsel repeatedly requested the learned District Munsif cum Judicial Magistrate, Shengkottai, to consider the Petitioner's request for argument, he did not concede to the same. The Petitioner is ready to conduct trial and also he

enclosed the copy of the written arguments in the typed set of papers. Since the learned District Munsif Cum Judicial Magistrate, Shengottai did not grant an opportunity to conduct argument, the petitioner has filed this Criminal Original Petition seeking transfer of the case.

3. Section 314 of Court of Criminal Procedure Code provides opportunity for filing memorandum of grounds and for oral arguments. The petitioner had filed his written arguments. However, he was not granted opportunity to put forth his oral arguments but the learned District Munsif Cum Judicial Magistrate, Shengottai reserved the case for judgment. It is in violation of the aforesaid provision. The petitioner has also enclosed the diary index of the Court. It is seen therefrom that the petitioner had not been afforded opportunity of arguments and the case was reserved for judgment.

4. The learned Additional Public Prosecutor would submit that there is no representation for the accused. On 12.09.2022, a memo was filed on behalf of the accused stating that this Criminal Original Petition filed seeking transfer of the case. Therefore, the learned District Munsif cum

Judicial Magistrate had adjourned the case to 23.09.2022 for furnishing the copy of this Criminal Original Petition.

5.Considering the submission of the learned Counsel for the Petitioner and the learned Additional Public Prosecutor, instead of transferring the Petition, this Court while exercising its inherent powers directs the learned District Munsif cum Judicial Magistrate, Shenkottai, to afford an opportunity to the learned Counsel for the accused to putforth his arguments and also the learned District Munsif cum Judicial Magistrate, Shenkottai is directed to hear arguments and if the written arguments are filed, consider the same and dispose of the case within a reasonable time of 15 days from the date of receipt of a copy of this order. This Criminal Original Petition is disposed of accordingly. Consequently connected Miscellaneous Petition is closed.

22.09.2022

Index:Yes/No
vsd

Note : Issue Order Copy on 23.09.2022

To

- 1.The District Munsif cum Judicial Magistrate,
Shenkottai,
Tenkasi District.
- 2.The Sub Inspector of Police,
Sambavar Vadakarai Police Station,
Kadayanallur Taluk,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL.O.P (MD) No.16722 of 2022

SATHI KUMAR SUKUMARA KURUP, J.

vsd

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