



**Crl.O.P.(MD) No.17646 of 2022**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

WEB COPY

DATED: 31.10.2022

CORAM

**THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

**CRL.O.P (MD) No.17646 of 2022**

A.Maduraiveeran

...Petitioner

VS

- 1.Mr.Justin Prabakaran,  
The Inspector (Crime),  
Tallakulam Police Station,  
Madurai.
- 2.Mr.Kennady,  
The Sub-Inspector of Police (Crime),  
Tallakulam Police Station,  
Madurai.
- 3.Mr.Selvam,  
Sub-Inspector of Police (Crime),  
Thedeer Nagar Police Station,  
Madurai.
- 4.Mr.Ravi,  
Sub-Inspector of Police (Crime),  
Tallakulam Police Station,  
Madurai.
- 5.Mr.Mohankumar,  
Head Constable (Crime),  
Tallakulam Police Station,  
Madurai.



**Crl.O.P.(MD) No.17646 of 2022**

6.Mr.Thavamani,  
Head Constable (Crime),  
Tallakulam Police Station,  
Madurai.

7.Mr.Rengan,  
Police (Crime),  
Tallakulam Police Station,  
Madurai.

8.Mr.T.Raja,  
Police (Crime),  
Tallakulam Police Station,  
Madurai.

...Respondents

PRAYER: Criminal Original Petition filed under Section 407 of Cr.P.C, praying to pass an order to withdraw the case in C.C.No.602 of 2012 on the file of the learned Judicial Magistrate Court No.II, Madurai District and to transfer the same to any other competent Court in Dindigul District.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.R.Meenakshi Sundaram  
Additional Public Prosecutor

### ORDER

This Criminal Original Petition has been filed to pass an order to withdraw the case in C.C.No.602 of 2012 on the file of the learned Judicial Magistrate Court No.II, Madurai District and to transfer the same to any other competent Court in Dindigul District.

2/10



**CrI.O.P.(MD) No.17646 of 2022**

WEB COPY

2.The learned Additional Public Prosecutor takes notice for the Respondents.

3.Heard the learned Counsel for the Petitioner and the learned Additional Public Prosecutor appearing for the Respondents.

4.The learned Counsel for the Petitioner submitted that the Petitioner had preferred in Cr.M.P.No.107 of 2009, based on which, the learned Judicial Magistrate had taken the complaint on file. Further, it is the submission of the learned Counsel for the Petitioner that the Petitioner have preferred in Cr.M.P.No.107 of 2009 against the Police officials. After recording the statement of the Petitioner as well as the other witnesses, the learned Judicial Magistrate had taken the complaint on file and numbered the case as C.C.No.602 of 2012.

5.In the mean while, the very same Petitioner have filed the another two cases in Cr.M.P.No.4467 of 2018 and Cr.M.P.No.4658 of 2018. Both the cases were adjourned to 06.04.2022. Subsequently, it was Suo-Motu



**CrI.O.P.(MD) No.17646 of 2022**

advanced to 02.05.2022 without notice to the complainant. Cr.M.P.No.4467 of 2018 and Cr.M.P.No.4658 of 2018 were adjourned from 02.05.2022 to 12.05.2022 then 30.05.2022 and then 31.05.2022. The case in C.C.No.602 of 2012 was adjourned to 06.05.2022 to 13.05.2022 and then adjourned to 27.05.2022.

6.The Petitioner who is the complainant in that case, observed that on 31.05.2022, the case was not called. He found that the case had been *Suo-Motu* advanced and adjourned to 06.05.2022, 31.05.2022 and 27.05.2022. Therefore, he sought explanation from the Bench Clerk of the Court. She did not give a proper reply. Therefore, the Petitioner filed the petition seeking certified photostat copy of the “A” Diary extract. Meanwhile, he had preferred the complaint that the case was *Suo-Motu* advanced without his knowledge and also he found that the notice sent from the Court returned unserved in Cr.M.P.No.4467 of 2018 and Cr.M.P.No. 4658 of 2018 as he had shifted his residence. Both the cases in Cr.M.P.No. 4467 of 2018 and Cr.M.P.No.4658 of 2018 were dismissed on 30.05.2022 by the Learned Judicial Magistrate No.II, Madurai.



**Crl.O.P.(MD) No.17646 of 2022**

7. Meanwhile, he came to know that the copy application filed by him was struck off by the Judicial order of the learned Judicial Magistrate No.II, Madurai.

8. Aggrieved by the same, he had given a criminal complaint to the High Court. The High Court had sought notarized affidavit from the Petitioner. The Petitioner accordingly filed the notarized affidavit before the Hon'ble High Court. Subsequently, the copy application filed in the petition have been returned, stating that the photostat copy will not be furnished. He had already preferred the complaint before the Registry of this Court and he does not want to proceed with the trial proceedings even though he obtained the stage of the case up to argument. Hence, he apprehends that justice will not be rendered, there will be bias in the mind of the learned Judicial Magistrate as he had preferred the complaint before the Registry of this Court. Therefore, he seeks transfer of the case. Also, he relies on the status of the case uploaded in the website of the Court wherein it is dated 26.09.2022.



**Crl.O.P.(MD) No.17646 of 2022**

9.He would also submit that he had filed another petition seeking earlier disposal in Cr.O.P.No.3976 of 2022, in which this Court had directed the learned Judicial Magistrate to dispose of the case within six month from the date of receipt of copy of this order in Crl.OP(MD).No.3976 of 2022 dated 01.03.2022.

10.On 28.10.2022, the learned Judicial Magistrate No.II, Madurai herself has addressed the letter to this Court seeking extension of time as she could not dispose the case within the specified time mentioned in Crl.O.P.(MD)No.3976 of 2022. As the petitioner herein had filed the petition stating Crl.O.P.No.17646 of 2022 was filed seeking transfer of the case from the Court of learned Judicial Magistrate No.II, Madurai.

11.Since, the petition seeks transfer of the case and on the apprehension, already he had filed a complaint before the learned Registrar of this Court. The learned Judicial Magistrate, he up to hence that based on the principle of bias the learned Judicial Magistrate may not be able to give a fair trial and in the principles of justice not only to done but also seems to be done. The petition is allowed, thereby withdrawing the case from the file



**Crl.O.P.(MD) No.17646 of 2022**

of the learned Judicial Magistrate No.II, Madurai to any other Court in Madurai Town.

12.The learned Chief Judicial Magistrate, Madurai is directed to withdraw the case in C.C.No.602 of 2012 pending on the file of the learned Judicial Magistrate No.II, Madurai.

13.The learned Chief Judicial Magistrate, Madurai himself can dispose of the case after granting time to the parties to put forth their arguments. Therefore, the case in C.C.No.602 of 2012 pending on the file of the learned Judicial Magistrate No.II, Madurai is withdrawn and transferred to the Court of the learned Chief Judicial Magistrate, Madurai. The other criminal complaint which are pending before the learned Judicial Magistrate II also can be transferred.

14.The learned Chief Judicial Magistrate, Madurai may pass the appropriate order on merit within a reasonable period of two months.



**Crl.O.P.(MD) No.17646 of 2022**

15. With the above direction, this Criminal Original Petition is disposed of. No cost. Consequently, the connected Miscellaneous Petition is closed.

**31.10.2022**

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

To

1. Mr. Justin Prabakaran,  
The Inspector (Crime),  
Tallakulam Police Station,  
Madurai.
2. Mr. Kennady,  
The Sub-Inspector of Police (Crime),  
Tallakulam Police Station,  
Madurai.
3. Mr. Selvam,  
Sub-Inspector of Police (Crime),  
Thedeer Nagar Police Station,  
Madurai.
4. Mr. Ravi,  
Sub-Inspector of Police (Crime),  
Tallakulam Police Station,  
Madurai.



**Crl.O.P.(MD) No.17646 of 2022**

5. Mr. Mohankumar,  
Head Constable (Crime),  
Tallakulam Police Station,  
Madurai.
6. Mr. Thavamani,  
Head Constable (Crime),  
Tallakulam Police Station,  
Madurai.
7. Mr. Rengan,  
Police (Crime),  
Tallakulam Police Station,  
Madurai.
8. Mr. T. Raja,  
Police (Crime),  
Tallakulam Police Station,  
Madurai.
9. The Additional Public Prosecutor,  
Madrurai Bench of Madras High Court,  
Madurai.

Copy To:

1. The learned Chief Judicial Magistrate,  
Madurai.
2. The learned Judicial Magistrate - II,  
Madurai.



WEB COPY



**Crl.O.P.(MD) No.17646 of 2022**

**SATHI KUMAR SUKUMARA KURUP, J.**

indu

**CRL.O.P (MD) No.17646 of 2022**

**31.10.2022**