



Crl.O.P.(MD) No.19115 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2022

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P (MD) No.19115 of 2022

Kumaravel

...Petitioner

VS

**The Inspector of Police,
East Police Station,
Thanjavur,
Thanjavur District.**

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to withdraw and transfer the case viz., S.C.No.113 of 2014 from the file of the learned 2nd Additional District and Sessions Judge, Thanjavur, Thanjavur District to any of the Court at the neighbourhood District viz., Pudukkottai or any other District.

For Petitioner : Mr.S.Vinayak

**For Respondent : Mr.R.Sivakumar
Government Advocate (Crl.side)**



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ORDER

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This Criminal Original Petition had been filed to transfer the case in S.C.No.113 of 2014 from the file of the learned II Additional District and Sessions Judge, Thanjavur, Thanjavur District to any of the Court at the neighbourhood District viz., Pudukkottai or any other District.

2.It is the submission of the learned Counsel for the Petitioner that the Petitioner is facing criminal trial in S.C.No.113 of 2014 on the file of the learned II Additional District and Sessions Judge, Thanjavur. It is the further submission of the learned Counsel for the Petitioner that there are two accused in this case.

3.It is the further submission of the learned Counsel for the Petitioner that during the course of trial, the learned II Additional District and Sessions Judge, Thanjavur, is alleged to have declared in open Court that this will be the last 'Diwali' for you. Therefore, apprehending that the Petitioner will not get justice before the learned II Additional District and Sessions Judge, Thanjavur, he seeks transfer of the case to any other District



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outside Thanjavur. It is the further submission of the learned Counsel for the Petitioner that the second accused had also filed additional affidavit supporting the contention of the Petitioner herein.

4.This is the glaring example of the constitutional by guaranteed right to the citizens of this country for fair trial being hijacked by the accused making allegations against the Presiding Judge at the stage of argument and seeking transfer of the trial at the stage of argument from the Court to any other Court outside Thanjavur. It is found that the principles of fair trial and speedy trial guaranteed to the citizens of this country are misused by the accused. The accused expects that the entire criminal justice system should be accused friendly and not the victim friendly ignoring the pain and sufferings of the victims. Further, the learned Counsel for the Petitioner would submit that the Petitioner had already sent complaints/petitions to the High Court seeking transfer as well as disciplinary proceedings against the Presiding Judge.

5.The Hon'ble Supreme Court in the reported decision of the all India Judges Case had commented upon the plight of the 'trial Judges facing



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trial' at the hands of the defense Counsel, at the hands of the accused, at the hands of the victims and at the hands of the witnesses and had issued guidelines to the High Courts not to initiate any disciplinary proceedings or pass strictures against the trial Judges.

6.This is glaring example of the accused making an allegation against the learned II Additional District and Sessions Judge, Thanjavur at the stage of arguments. As per the affidavit of the Petitioner, he is facing trial for the charges under Sections 449, 302 and 382 IPC r/w 34 IPC for causing death of a retired District Revenue Officer, namely Dharmarajan, who was murdered.

7.Even in the cases, where the accused had sought further investigation, the Hon'ble Supreme Court had deprecated the practise of the accused seeking transfer of investigation. The same yardstick applies here also. The evidence of the accused is recorded in his presence in the principle of fair trial. Therefore, the accused is aware of the outcome, in the light of the evidence recorded by the Court as well as the mandatory provisions of



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Cr.P.C., where the Presiding Judge puts questions to the accused before commencement of the arguments under Section 313 Cr.P.C.

8.Under those circumstances, the submission of the learned Counsel for the Petitioner seeking transfer of the case at the stage of argument to any other District outside Thanjavur cannot at all be accepted in the settled principles of law that the part heard cases will not be transferred on the slight pretext on the basis of the allegation levelled by the accused.

9.In the result, this Criminal Original Petition is dismissed. The Petitioner is directed to co-operate with the trial Court.

Internet:Yes/No
Index:Yes/No
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25.11.2022

To

1.The 2nd Additional District and Sessions Judge,
Thanjavur,
Thanjavur District.

2.The Inspector of Police,
East Police Station,
Thanjavur, Thanjavur District.

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SATHI KUMAR SUKUMARA KURUP, J.

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3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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