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*Crl OP Nos.1979 &
1525 of 2021*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition Nos.1979 and 1525 of 2021

and

Crl.M.P.Nos.1116 & 1117 of 2021 & 885, 886 of 2021,
10496 & 10497 of 2022,

Crl.O.P.No.1979 of 2021

S.Priyakrishnan

... Petitioner

Versus

Kiruthika

...Respondent

Prayer : Criminal Original Petition has been filed under Section 407 of the Criminal Procedure Code seeking to withdraw the complaint from the file of the Judicial Magistrate II, Chidambaram in M.C.No.2 of 2020 and transfer the same to Chief Judicial Magistrate, Pondicherry.

For Petitioner : Mr.I.Abrar Mohamed Abdullah

For Respondent : Mr.S.A.Shanmugam



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Crl.O.P.No.1525 of 2021

S.Priyakrishnan

... Petitioner

Versus

1.The State

Rep. By the Inspector of Police,
All Women Police Station,
Chidambaram.
(C.C.No.7/2020)

2.G.Sundarrajan

...Respondents

Prayer : Criminal Original Petition has been filed under Section 407 of the Criminal Procedure Code seeking to withdraw the complaint from the file of the Judicial Magistrate No.2, Chidambaram in C.C.No.7 of 2020 and transfer the same to Chief Judicial Magistrate, Pondicherry

For Petitioner : Mr.I.Abrar MD Abdullah

For Respondents : Mr.S.Balaji
Government Advocate (Crl. Side)

Mr.Shanmugam for R2



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COMMON ORDER

Criminal Original Petition No.1979 of 2021 seeks transfer of the maintenance case pending on the file of Judicial Magistrate II, Chidambaram to Chief Judicial Magistrate, Pondicherry, in which the petitioner is the respondent. Similarly Criminal OP No.1525 of 2021 seeks transfer of CC No.7 of 2020 in which the petitioner is an accused, from the file of Judicial Magistrate II, Chidambaram, to Chief Judicial Magistrate, Pondicherry.

2. The learned counsel for the petitioners would submit that the Defacto complainant is related to practicing lawyers in Chidambaram and they are exercising undue influence in the proceedings before the Court; and that the FIR which culminated in the Final Report in CC No.7 of 2020 was registered in undue haste and the Final Report was filed with equal haste. The learned counsel further submitted that in CC No.7 of 2020, even before service of summons to the petitioner, the learned Magistrate has passed an order on 17.07.2020 to issue a "look out circular" against the petitioner and thereafter he had sent a letter directly



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to the Regional Passport Officer to revoke the passport of the petitioner.

This extraordinary order passed by the learned Magistrate is sufficient to show that the petitioner may not get fair justice before the learned Magistrate.

3. The learned counsel would further submit that earlier the petitioner had filed Transfer Petitions seeking transfer of HMOP No.902 of 2019 filed by the petitioner for divorce and HMOP No.31 of 2020 filed by the Defacto Complainant for restitution of conjugal rights. The Divorce Petition was pending on the file of Sub Court, Tambaram, whereas the restitution of conjugal rights petition was pending on the file of Sub Court, Chidambaram. This Court had transferred both the cases to the file of Family Court, Pondicherry. The learned counsel drew the attention of this Court to the observations made by this Court in Transfer CMP Nos.110 and 420 of 2020, wherein this Court had commented upon the conduct of the Defacto Complainant and the learned Judicial Magistrate II, Chidambaram. Therefore, the learned counsel would pray that the proceedings which are pending before the learned Magistrate may be transferred to the Chief Judicial Magistrate, Pondicherry.



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4. The learned counsel appearing for the Defacto complainant/respondent submitted that none of the allegations made by the petitioner are true and merely because the relative of the Defacto complainant is practicing in the Courts at Chidambaram, one cannot infer that he would influence the course of the proceedings in Chidambaram. The learned counsel further submitted that there is no material to show that any of the allegations made by the petitioner are true. The transfer applications have been filed only to delay the proceedings. The respondent is staying in Chidambaram and most of the witnesses are residing in Chidambaram. If the matters are transferred to Pondicherry, they would be put to hardship and inconvenience. Hence the learned counsel prayed for dismissal of the Transfer petitions.

5. This Court finds that the learned Judicial Magistrate II has passed certain orders on the petition filed by the Defacto complainant in her favour. This Court in Transfer CMP Nos.110 and 420 of 2020 has observed that there were some deviations in the procedure adopted by the respondent family and the learned Magistrate. That apart this Court in Criminal OP No.20672 of 2021 by order dated 16.03.2022 set aside the



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order passed by the learned Magistrate II, directing the superintendent to issue look out circular and issuing a fresh communication to the Regional Passport Officer to revoke the passport of the petitioner.

6. In the said proceedings this Court had observed that the learned Magistrate had even before the service of summons to the petitioner had passed the order dated 17.07.2020. Further this Court finds that HMOPs filed by either parties have now been transferred to the Family Court, Pondicherry. In view of the apprehension expressed by the petitioners, the orders passed by this Court in various proceedings and the fact that the divorce proceedings are pending before the Family Court, Pondicherry, this Court is inclined to transfer both the proceedings viz. MC No.2 of 2020 and CC No.7 of 2020 to the file of Chief Judicial Magistrate, Pondicherry, from the file of Judicial Magistrate – II, Chidambaram.

7. It is stated that the petitioner has been paying the maintenance of Rs.12,500/- to the respondent/Defacto complainant every month. By an earlier order in WP(MD) No.8455 of 2020, this Court had directed the



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petitioner to remit the said sum to the District Legal Service Authority, Cuddalore and further directed the District Legal Service Authority to arrange for transferring the amount to the account of MC No.2 of 2020 so that the Defacto Complainant would withdraw the said amount. It is needless to say that the said order will continue. However the District Legal Service Authority shall now arrange to transfer the amount received from the petitioner to the account of the Maintenance Case i.e. to be transferred to Chief Judicial Magistrate, Pondicherry instead of MC No.2 of 2020 on the file of Judicial Magistrate II, Chidambaram.

8. With the above observation, the Criminal Original Petitions are allowed. Consequently, the connected miscellaneous petitions are closed.

21.03.2023

jv

Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No



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To

1. The Inspector of Police,
All Women Police Station,
Chidambaram.
2. The Judicial Magistrate II,
Chidambaram
3. The Chief Judicial Magistrate,
Pondicherry.
4. The Public Prosecutor
High Court of Madras
Chennai – 600 104.



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SUNDER MOHAN, J.

jv

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21.03.2023