



Crl.O.P.No.21464 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.21464 of 2023

and

Crl.M.P.No.14768 of 2023

U.R.C.Rasu @ Chandrasekaran
S/o.Duraisamy Gounder

... Petitioner

Vs.

1.The State represented by
Deputy Superintendent of Police,
Crime Branch CID,
Coimbatore District.
Crime No.671 of 2008.

2.N.Subramani
S/o.P.K.Nallasamy Gounder

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to withdraw S.C.No.26 of 2010 on the file of learned Principal District and Sessions Judge, Erode and transfer the same to the Assistant Sessions Court, Perundurai.



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For Petitioner :Mr.Abudukumar Rajarathinam, Senior Counsel
for Mr.M.Guruprasad

For Respondents :Mr.A.Damodaran, Additional Public Prosecutor [R1]

ORDER

This Criminal Original Petition has been filed seeking for transfer of proceedings in S.C.No.26 of 2010 pending on the file of Principal District and Sessions Court, Erode to the Assistant Sessions Court, Perundurai.

2. Heard Mr.Abudukumar Rajarathinam, learned Senior Counsel appearing for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for first respondent.

3. The petitioner is facing trial before the learned Principal District and Sessions Judge, Erode, in S.C.No.26 of 2010 for offences u/s.120-B r/w 147, 447, 379 IPC and 3(i) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.

4. There are totally 8 accused persons, who are facing trial and the



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petitioner has been arrayed as A11. Initially, the trial was conducted before the Principal District and Sessions Court, Erode and 7 witnesses were examined on the side of prosecution. Thereafter, the case was transferred to the file of Assistant Sessions Judge, Perundurai, by virtue of the order passed in Crl.M.P.Nos.923 and 924 of 2015 in S.C.No.26 of 2010, dated 10.08.2015.

5. The order passed by the learned Principal District and Sessions Judge, Erode, transferring the case to the learned Assistant Sessions Judge, Perundurai, was put to challenge before this Court in Crl.O.P.No.253 of 2016 *etc.* batch. This Court, by order dated 11.02.2016, set aside the order passed by learned Principal District and Sessions Judge, Erode and transferred the case back to the file of the learned Principal District and Sessions Judge, Erode. The order passed by this Court is reported in ***C.Guhamani v. State [(2016) 2 LW (Cri) 185]***. The Special Leave Petition filed against this order was also dismissed by the Apex Court.

6. A reference was made to the Division Bench of this Court since



there were conflicting views expressed by various Single Judges of this Court with regard to the Court which has the jurisdiction to deal with the offence under the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992. One set of Judges had taken a view that it can be tried even by Additional Sessions Court or Assistant Sessions Court. The other set of Judges took a view that the Principal District and Sessions Court alone can deal with the offence. Ultimately, the Division Bench in the judgment in *Mangalanatha Durai and others v. State* [(2023) 1 LW (Cri) 891] categorically held that "Court of Session" will include both Additional and Assistant Sessions Judges. It is important to note that the Division Bench while rendering this judgment has specifically overruled the earlier order passed in Crl.O.P.No.253 of 2016 *etc.* reported in *C.Guhamani v. State* [(2016) 2 LW (Cri) 185]. In view of the same, the order passed by the learned Principal District and Sessions Judge, Erode, transferring the case to the Assistant Sessions Court, Perundurai, merged with the judgment of the Division Bench. It is, under these circumstances, the present petition has been filed seeking for transferring the case from the file of the Principal District and Sessions Court, Erode to the file of



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Assistant Sessions Court, Perundurai.

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7. Learned Senior Counsel appearing on behalf of the petitioner submitted that apart from the fact that the order passed by learned Single Judge was specifically overruled and consequently, the earlier order passed by the Principal Sessions Judge, Erode, stood revived, the petitioner also will loose one right of appeal if the case continues to be tried by the Principal District and Sessions Judge, Erode and in the event of accused persons getting convicted and sentenced. Therefore, it was contended that the case must necessarily go back to the file of Assistant Sessions Judge, Perundurai.

8. Learned Additional Public Prosecutor, on instructions, submitted that there are totally 60 witnesses to be examined in S.C.No.26 of 2010 and out of the same, 22 witnesses have been examined - 7 witnesses before the Principal District and Sessions Court, Erode, 7 witnesses before the Assistant Sessions Court, Perundurai, 1 witness before the Additional Sessions Court, Erode and 7 witnesses before the Special Court for MP and MLA cases, Chennai.



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9. In the considered view of this Court, by virtue of the judgment of the Division Bench referred supra, the case has to necessarily go back to the file of Assistant Sessions Court, Perundurai, for continuation of proceedings. This is in view of the fact that the earlier order passed by learned Single Judge in Crl.O.P.No.253 of 2016 *etc.* was specifically overruled by the Division Bench. Therefore, the earlier order of the Principal District and Sessions Court, Erode, transferring the case to the Assistant Sessions Court, Perundurai, stands revived. Hence, this Court is inclined to transfer the case from the file of Principal Sessions Court to the file of Assistant Sessions Court, Perundurai.

10. In the result, the case in S.C.No.26 of 2010 pending on the file of Principal District and Sessions Court, Erode, is withdrawn and transferred to the file of Assistant Sessions Court, Perundurai. The case file shall be transferred within a period of four (4) weeks by the Principal District and Sessions Court, Erode. Learned Assistant Sessions Judge, Perundurai, shall commence the proceedings from the stage at which it was pending before the Principal District and Sessions Court, Erode. Considering the fact that the case has been pending from the year 2010



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onwards, the learned Assistant Sessions Judge is directed to dispose of the case in S.C.No.26 of 2010 within a period of six (6) months from the date of receipt of a copy of this order.

Accordingly, this Criminal Original Petition is disposed of.

Consequently, connected miscellaneous petition is closed.

19.09.2023

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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To

1.The Principal District and Sessions Court,
Erode.

2.The Assistant Sessions Court,
Perundurai.

3.The Deputy Superintendent of Police,
Crime Branch CID,
Coimbatore District.
Crime No.671 of 2008.

4.The Public Prosecutor,
Madras High Court,
Chennai.



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N.ANAND VENKATESH, J.

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