



Crl.O.P.No.22121 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22121 of 2023

and

Crl.M.P.No.15382 of 2023

Arupaiyan @ Arumugam

... Petitioner

Vs.

State rep by
The Inspector of Police,
Vellithiruppur Police Station,
Erode District.
(Crime No.243 of 2022)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 13.07.2023 made in Tr.Crl.M.P.No.863 of 2023 on the file of the learned Principal Sessions Judge at Erode and withdrawing case in C.C.No.4 of 2023 on the file of the Judicial Magistrate No.II, Bhavani and transferring the same to any other Court of Judicial Magistrate competent to try the case by allowing this Criminal Original Petition.

For Petitioner	: Mr.M.Guruprasad for M/s.R.Vigneshwari
For Respondent	: Mr.S.Udaya Kumar Government Advocate (Crl. Side)



ORDER

In C.C.No.4 of 2023, the defacto complainant is a practising Advocate at Bhavani and the sole accused is husband of Ward Councilor of Reddipalayam Panchayat.

2. A case registered against the petitioner for the offence under Sections 294 B, 341 and 506 (i) IPC by the Vellithiruppur Police is now been tried before the Judicial Magistrate No.II, Bhavani. The petitioner who is the sole accused sought for transfer of the case to some other Judicial Magistrate within the Sessions division of Erode. The said request was declined by the learned Principal Sessions Judge stating that there is no cogent and convincing ground made out by transferring the Court from one another.

3. The learned counsel appearing for the petitioner submitted that since the defacto complainant is the practising Advocate in the very same Court, the sole accused find very difficult to get proper legal assistance and therefore, for fair and impartial jury, he needs proper legal assistance which he is not able to get it at Bhavani where the defacto complainant is



practising. There is semblance of apprehension in the mind of the petitioner that the legal fraternity practising in Judicial Magistrate Court, Bhavani may not render him full assistance in defending his case. Though the said apprehension may be an illusion one, only a semblance to allay the same. It is proper to transfer the matter to some other Judicial Magistrate within the Sessions division of Erode. The learned Principal Sessions Judge, Erode is directed to withdraw the case in C.C.No.4 of 2023 on the file of Judicial Magistrate, Bhavani and transfer to Judicial Magistrate No.1, Erode.

4. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

06.10.2023

Index : Yes/No
Neutral Citation : Yes/No

rpl

To

- 1.The Principal Sessions Judge, Erode.
- 2.The Judicial Magistrate No.II, Bhavani



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3.The Inspector of Police,
Vellithiruppur Police Station,
Erode District.

4. The Public Prosecutor,
High Court, Madras.

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