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Crl.OP.No.25192 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.25192 of 2023

and

Crl.MP.No.17453 of 2023

G.Palani

... Petitioner

Vs.

S.Panneerselvam

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 21.09.2023 in Crl.MP.No.2081 of 2023 passed by the learned Principal Sessions Judge, Thiruvannamalai in the interest of justice and pass orders.

For Petitioner : Mr.Manuraj

ORDER

Suspecting the credibility and integrity of the Officer and on apprehension of bias, the petition for transfer is filed before the Principal Judge, but, the same was not entertained by the Principal Judge. Hence, the present petition is filed before this Court.



Crl.OP.No.25192 of 2023

WEB COPY

2. From a reading of the papers and the available records, this Court finds that after examination of the witnesses on the side of the complainant, this petitioner being the accused, incriminating material was put to him under Section 313 of Cr.P.C. After recording his answer when the Court has questioned him whether he has any defence witness, it is alleged that though he answered in affirmative, the Court recorded in negative and when that was pointed out while signing the answers, the Magistrate has corrected and also tried to mediate between the parties and therefore apprehending that she may be biased, transfer petition was filed before the Magistrate to transfer the matter to some other Judicial Magistrate. However, the trial Court after considering the merits of the case has found that the petitioner herein has filed a memo for examining six witnesses on his side and that was accepted by the trial Court and the case was adjourned on these dates i.e., 07.06.2023, 14.06.2023, 21.06.2023, 26.06.2023, 03.07.2023, 10.07.2023 and 02.08.2023 respectively for marshalling the witness, but, the petitioner has not proceeded with examining the witness. Hence found that there is no merit in the petition for transfer.



Crl.OP.No.25192 of 2023

WEB COPY

3. The learned counsel appearing for the petitioner submits that since the petitioner has approached the District Court even before 14.06.2023 for transfer of case from Judicial Magistrate, Polur to any other Court in the Thiruvannamalai District, he did not evince any interest to marshal his witness. Therefore, that cannot be taken adverse to his interest.

4. This Court on perusing the documents find that the complaint been taken on file by the learned Judicial Magistrate Court in the year 2021 and assigned STC No.204 of 2021 at any stage under Section 313 Cr.P.C only during the month of May 2023. Thereafter, the petitioner been given an opportunity to marshal his witness, but due to some apprehension he has sought for transfer and the District Court had found that there is no reason which warrants transfer of the case from the present Judicial Magistrate Court to some other Court. This Court agree with the reasoning and confirms the order of the District Court since the apprehension appears to be very vague at the fag end of the trial.



Crl.OP.No.25192 of 2023

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Vv

02.11.2023

To

1. The Principal Sessions Judge,
Thiruvannamalai.
2. The Public Prosecutor,
High Court of Madras,
Chennai.



WEB COPY



Crl.OP.No.25192 of 2023

Dr.G.JAYACHANDRAN,J.

Vv

Crl.OP.No.25192 of 2023

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