



*Crl.O.P.(MD)No.453 of 2023*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 16.02.2023

DELIVERED ON :28.02.2023

CORAM

**THE HON'BLE MR.JUSTICE K.MURALI SHANKAR**

**Crl.O.P.(MD)No.453 of 2023**

A.K.Raman

... Petitioner/2<sup>nd</sup> Respondent

Vs.

1.Sethu Madhavan

... 1<sup>st</sup> Respondent/ Petitioner

2.State represented by  
The Inspector of Police,  
Thirukokarnam Police Station,  
Pudukkottai District.  
Crime No.494 of 2007.

3.Amalraj

4.Sathyamoorthy

5.Ganesan

... Respondents/Respondents

(No relief claimed against the respondents  
3 to 5. Hence, notice may be dispensed with)

**PRAYER :** Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order, dated 25.11.2022 in



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Tr.C.M.P.No.4080 of 2022, on the file of the learned Principal District Judge, Pudukkottai.

For Petitioner : Mr.M.Rajarajan

For Respondents : Mr.V.Muthukamatchi  
for R.1

: Mr.R.Sivakumar  
Government Advocate(Crl.Side)  
for R.2

### **ORDER**

This Criminal Original Petition filed under Section 482 Cr.P.C., is directed against the order passed in Tr.C.M.P.No.4080 of 2022, dated 25.11.2022, on the file of the Principal District and Sessions Court, Pudukkottai in transferring the case in C.C.No.62 of 2018, on the file of the Court of Judicial Magistrate No.II, Pudukkottai to the file of the Court of Judicial Magistrate, Thirumayam.

2. The petitioner is the first accused in C.C.No.62 of 2018, on the file of the Judicial Magistrate No.II, Pudukkottai. The first respondent/defacto complainant has filed a petition under Section 408 Cr.P.C., seeking orders to transfer the case in C.C.No.62 of 2018 from



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the file of the Judicial Magistrate Court No.II, Pudukkottai to some other Judicial Magistrate Court of Pudukkottai District. It is evident from the records that on the basis of the complaint given by the second respondent, F.I.R., came to be registered in Cr.No.494 of 2007 and after investigation, final report came to be filed for the alleged offences under Sections 463, 464, 465, 467, 468, 471, 474, 420, 120-B and 506(ii) I.P.C., against four accused – the petitioner and the respondents 3 to 5 herein and the case was taken on file in C.C.No.264 of 2013, on the file of the Judicial Magistrate Court No.I, Pudukkottai and that after the formation of the new Court and the consequent transfer of the jurisdiction of Thirugokarnam police station to the said Court, the case was transferred to the file of the Judicial Magistrate Court No.II and the same was taken on file in C.C.No.62 of 2018.

3. The case of the first respondent/Petitioner is that he was called as a witness and he deposed evidence on 14.02.2017, that subsequently after the transfer of the case, he was again recalled on 21.09.2021 and was cross-examined by the defence, that the first respondent had engaged separate Advocate to understand the charge sheet for conducting the case



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and he came to know that the Thirugokaranam police has failed to recover the material document ie., the forged original sale deed and they have also failed to add the other persons, who had abetted the offences, that the first respondent has then filed an application under Section 311 Cr.P.C., to recall and cross-examine except the petitioner, P.W.1 and P.W.8, that the first respondent, after getting necessary legal opinion and advice, has filed two petitions one under Section 91 Cr.P.C., and the other under Section 173(8) Cr.P.C., and that since the first respondent has failed to appear before the concerned Court, after he was recalled for cross-examination, a bailable warrant was ordered to be issued against him. The first respondent, by raising allegations as if the learned Judicial Magistrate was conducting the trial in support of the accused and was acting in a biased manner, has come forward with the above application to transfer the case from the said Court to some other Court.

4. The learned Principal Sessions Judge, after specifically observing that the allegations against the Judicial Officer was not substantiated and he was not inclined to accept the same, but at the same time, in order to instill the confidence in the minds of the parties, by



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following the decision of the Hon'ble Supreme Court in ***Abdul Nazar***

***Madani Vs. State of Tamil Nadu and another*** reported in ***(2000)6 SCC***

***204***, has allowed the transfer application ordering the withdrawal of the said case in C.C.No.62 of 2018, from the file of the Judicial Magistrate Court No.II, Pudukkottai and transfer of the same to the Court of Judicial Magistrate, Thirumayam and further directed to dispose of the case at the earliest not later than two months from the date of receipt of that order. The petitioner, who is the first accused, aggrieved by the said order of transfer, has come forward with the present Criminal Original Petition.

5. The main contention of the petitioner is that the learned Principal District Judge, without issuing notice to the accused including the petitioner and without hearing other side, has passed the impugned order, transferring the case to Thirumayam Court, that there is unreasonable delay in the disposal of the criminal case due to the attitude of the first respondent/complainant and that the learned Judge, without assigning any reason, has passed a non-speaking order in transferring the case.



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6. As rightly contended by the learned Counsel for the petitioner, the allegations levelled by the first respondent against the Judicial Officer cannot be believed and as rightly pointed out by the learned Principal Sessions Judge, the first respondent has not produced any material or evidence to substantiate his allegations. Nowadays it has become a fashion in levelling such baseless and vexatious allegations against the Judicial Officers for the purpose of getting the case transferred from that particular Court.

7. It is evident from the records that the case is pending from 2013 onwards and already 9 years had lapsed. It is further evident that the first respondent by engaging his own Counsel has already filed applications to recall the witnesses and the same were ordered. As rightly contended by the learned Counsel for the petitioner, there is absolutely no explanation for the delay in taking the above action by the first respondent, despite the pendency of the above case from 2013 onwards.



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8. When the matter was taken up for hearing, the learned Counsel for the petitione would submit that the petitioner is now aged about 64 years and is a resident of Keeeranur and that it is very difficult for him to travel all along Keeranur to Thirumayam to attend the Court hearings and that the case may be transferred to the Court of the Judicial Magistrate Court No.I, Pudukkottai.

9. The learned Counsel for the first defendant would submit that they are not having any objection for the same.

10. In view of the above, the impugned order transferring the case in C.C.No.62 of 2018 from the file of the Court of Judicial Magistrate No.II, Pudukkottai is set aside and the case in C.C.No.62 of 2018, on the file of the Court of the Judicial Magistrate No.II, Pudukkottai is ordered to be withdrawn and transferred to the Court of Judicial Magistrate No.I, Pudukkottai for disposal in accordance with law. The learned Judicial Magistrate No.I, Pudukkottai is directed to complete the trial and dispose of the same as expeditiously as possible preferably within a period of two months from the date of receipt of a copy of this order.



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11. With the above directions, the Criminal Original Petition is disposed of .

**28.02.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
SSL

To

- 1.The Judicial Magistrate Court No.II, Pudukkottai.
- 2.The Judicial Magistrate Court No.I, Pudukkottai.
- 3.The Judicial Magistrate Court, Thirumayam.
4. The Inspector of Police,  
Thirukokarnam Police Station,  
Pudukkottai District.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.MURALI SHANKAR,J.**

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PRE-DELIVERY ORDER MADE IN

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