



Crl.O.P.(MD)No.4562 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2023

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.4562 of 2020

and

Crl.M.P.(MD).No.2570 of 2020

1.George Zacharia

2.Vinitha @ Vineetha George

... Petitioners/Accused No.1 & 2

Vs.

C.Christober Jobi

...Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 407(1) Cr.P.C., to withdraw C.C.No.265 of 2018 on the file of the Judicial Magistrate Court No.I, Padmanabhapuram, Kanyakumari Distirct and transfer the same to the file of the Judicial Magistrate Court, Vallioor, Tirunelveli District or any other Court.

For Petitioners : Mr.R.J.Karthick

For Respondent : Mr.N.Dilip Kumar



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ORDER

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The Criminal Original Petition is filed seeking transfer of C.C.No.265 of 2018 pending on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, Kanyakumari District to the file of the learned Judicial Magistrate, Vallioor, Tirunelveli District.

2. The reasons cited by the petitioners is that they are facing prosecution on the complaint filed by the respondent herein, who is a practising Advocate in Boothapandi. The learned counsel for the petitioners also produced a copy of the resolution passed by the Boothapandi Bar Association in which a request was made to the members of the Bar Association not to appear for the petitioners, since one of the members of their Bar Association is the complainant. The learned counsel therefore submitted that unless the case is transferred, the petitioners may not be represented effectively by a lawyer of their choice, which is a fundamental right.

3. The learned counsel for the respondent submitted that the case is now pending on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, whereas, a resolution is only passed by the Bar Association of Boothapandi



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Town and hence, the petitioners' apprehension is without any basis. Further, the learned counsel also submitted that no such resolution was passed by the Association and doubts the correctness of the document filed by the petitioners. He would also submit that a counsel has already filed vakalat on behalf of the accused and therefore, no prejudice would be caused. However, the learned counsel fairly submitted that since the petitioners apprehend that they would not get fair trial, he is agreeable for transfer of the case and a direction may be issued to the transfer judge for early disposal of the trial.

4. Having regard to the submissions made by the learned counsel on either side, without going into the merits of the matter as to whether a resolution was passed or not and as to whether the petitioners are defended by a lawyer at present before the learned Judicial Magistrate No.I, Padmanabhapuram, this Court is of the view that since an apprehension has been expressed by the learned counsel for the petitioners, no prejudice would be caused in transferring the instant case to the file of the learned Judicial Magistrate, Vallioor, Tirunelveli District in the interest of justice. However, since the complaint was filed in the year 2018, it is desirable that the trial is expedited. The learned Judicial Magistrate No.I, Padmanabhapuram may send the records of C.C.No.265 of 2018 to the learned Judicial Magistrate, Vallioor,



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Tirunelveli District within a period of four (4) weeks from the date of receipt of a copy of this order. On receipt of the records, the learned Judicial Magistrate, Vallioor, Tirunelveli District shall expedite the trial and conclude it within a period of six (6) months thereafter.

5. With the above direction, this Criminal Original Petition is ordered. Consequently, connected miscellaneous petition stands closed.

06.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

To

1.The Judicial Magistrate No.I,
Padmanabhapuram,
Kanyakumari District.

2.The Judicial Magistrate,
Vallioor,
Tirunelveli District.



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SUNDER MOHAN, J.

Lm

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and
CrI.M.P.(MD).No.2570 of 2020**

06.02.2023