



Crl.R.C.(MD)No.379 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.02.2023

CORAM:

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.R.C.(MD)No.379 of 2022

Narkis Parvin

... Petitioner / Petitioner / Accused

Vs

State, represented by
The Inspector of Police,
Thiruvudaimaruthur Police Station,
Thiruvudaimaruthur,
Tanjore District.

... Respondent / Respondent / Complainant

Prayer: This Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C., to call for the records in S.R.No.139 f 2022 in Cr.M.P.No. Unnumbered of 2022, on the file of the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, dated 07.03.2022 and set aside the same, by allowing this revision.

For Petitioner : Mr. Sundar.R

For Respondent : Mr. Sakthi Kumar.M
Government Advocate (Crl. Side)

ORDER

Challenging the dismissal order, dated 07.03.2022, in S.R.No.139 of 2022 in Crl.M.P. No.Unnumbered of 2022, passed by the learned Chief



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Judicial Magistrate, Thanjavur at Kumbakonam, this Criminal Revision Case has been preferred by the revision petitioner.

2. The facts in brief:

This revision petitioner is an accused in C.C. No.465 of 2019 filed the petition before the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, under Section 410 of Cr.P.C. to withdraw the above said criminal case on the file of learned District Munsif-cum-Judicial Magistrate Court, Thiruvaidaimaruthur and transfer the same to some other Court.

3. Without numbering the above said petition, the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, heard the matter on the question of maintainability. The learned Chief Judicial Magistrate, Kumbakonam, is of the view that the petition for transfer is not maintainable before that Court.

4. But however, the petitioner has contended that the petition under Section 410 of Cr.P.C. is maintainable before the learned Chief Judicial Magistrate. After hearing the revision petitioner, the learned Chief Judicial Magistrate, Kumbakonam, was of the view that no order can be passed under



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Section 410 of Cr.P.C, by him. If at all the transfer order can be passed by the learned Principal District Judge under Section 408 of Cr.P.C. This ground may not be correct.

5. But however when the matter was taken up for enquiry, this Court put a question to the learned counsel for the revision petitioner as to his grievance with the above said trial made by the learned District Munsif cum Judicial Magistrate, Thiruvudaimaruthur. He would submit that the Presiding Officer is prejudiced against the revision petitioner. When the evidence was recorded, he expressed his dispressure over the above said manner of evidence. But the E-Court diary does not reflect the fact that P.W.1 was examined in the Court. According to him, proceedings done by the Presiding Officer will show that he is prejudiced against him, according to him he may not be get justice at his hands. On that score, report was called for from the District Munsif cum Judicial Magistrate, Thiruvudaimaruthur, and the report was also submitted, it is seen that for producing the death certificate of the second accused, the matter is kept pending.

6. Now whatever it may be, in the considered view that without going into the merits of the petition as to whether it is maintainable or not



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before the learned Chief Judicial Magistrate, to avoid unnecessary problem and in my considered view, the case in C.C.No.465 of 2019 may be withdrawn from the file of the learned District Munsif cum Judicial Magistrate, Thiruvidadaimaruthur and transfer to the learned Judicial Magistrate No.1, Kumbakonam for trial.

7. The learned District Munsif cum Judicial Magistrate, Thiruvidadaimaruthur, is directed to transmit the entire records on receipt of the order copy to the learned Judicial Magistrate No.1, Kumbakonam. After receiving the case records, the learned Judicial Magistrate No.1, Kumbakonam is directed to assign a new number and issue notice to the prosecution, accused and the defacto complainant informing the date, case number. It may proceed with the trial in accordance with law. Since the case is of the year 2018, the learned Judicial Magistrate No.1, Kumbakonam is directed to dispose the case on merits within five months from the date of appearance of the accused and the prosecution.

8. In view of the above said direction, this Criminal Revision Case is allowed and the order, dated 07.03.2022, in S.R.No.139 of 2022 in Crl.M.P. No.Unnumbered of 2022, passed by the learned Chief Judicial Magistrate,



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Thanjavur at Kumbakonam,, is hereby set aside.

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NCC :Yes/No
Index :Yes/No
Internet:yes/No
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To

- 1.The Inspector of Police,
Thiruvaidaimaruthur Police Station,
Thiruvaidaimaruthur,
Tanjore District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN,J.

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