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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2023

CORAM:

THE HONOURABLE **MR. JUSTICE K.K.RAMAKRISHNAN**

CrI.O.P.(MD) No.5522 of 2021

and

CrI.M.P(MD) No.3161 of 2021

O.Homerlal

...Petitioner

Vs.

1.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
(Crime No.376 of 2016)

2.O.Renuka

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.
praying to transfer C.C.No.258 of 2018 in Crime No.376 of 2016, on the
file of the learned Judicial Magistrate, Valliyoor.

For Petitioner : Mr.S.C.Herold Singh

For R-1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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ORDER

This Criminal Original Petition is filed to transfer C.C.No.258 of 2018 in Crime No.376 of 2016, on the file of the learned Judicial Magistrate, Valliyoor.

2. The learned Counsel for the petitioner submitted that the criminal case had already transferred at the instance of the second respondent to the learned Judicial Magistrate, Valliyoor. In the present case, the investigation agency filed the final report against the petitioner for showing him as absconding accused. So the petitioner had filed the appropriate proceedings challenging the said NBW proceedings before this Court. At this stage, he is seek for transfer of the case from the learned Judicial Magistrate No.I, Kuzhithurai to the learned Judicial Magistrate, Valliyoor. The learned Counsel for the petitioner further submitted that in view of the pendency of the NBW, he is unable to proceed with the case and also he was ready to conduct the trial before the learned Judicial Magistrate I, Kulithurai.



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3. The learned Additional Public Prosecutor submitted that the case is pending before the Court with the influence of the NBW against the petitioner's Counsel and in view of this Criminal Original Petition, trial has not commenced. Considering this view, this Court disposed this Criminal Original Petition with the following direction:

(i) The learned Judicial Magistrate No.I, Kulithurai is directed to dispose the C.C.No.258 of 2018 within two (2) months from the date of receipt of a copy of this order.

(ii) The petitioner is hereby directed to file the recall petition under Section 70 (2) of the Criminal Procedure Code to recall the NBW and the same was disposed by the learned Judicial Magistrate, without insisting the personal appearance of the petitioner, upon receipt of the undertaking affidavit from the petitioner for his future appearance and co-operation for the completion of trial without fail. The learned Counsel for the petitioner further directed to co-operate the trial without seeking any adjournment and also directed to cross-examine the witnesses on the same day.



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4. With the above said observation, this Criminal Original Petition stands closed. Consequently, connected Miscellaneous Petition stands closed.

05.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
BTR

To

1. The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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