



Crl.O.P.(MD)No.11387 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15/12/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.11387 of 2023

and

Crl.MP(MD)No.8973 of 2023

Selvendiran : Petitioner/A2
Vs.

1.State represented through
The Inspector of Police,
Uthamapalayam Police Station,
Theni District.
(In Crime No.733 of 2021)

2.Pukalendran

3.V.Gomathi

(R2 and R3 impleaded as per
the orders of this court
made in Crl.MP(MD)Nos.10329
and 16468 of 2023, dated
27/11/2023)

: R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 407 r/w 482 of the Criminal Procedure Code, to transfer the case in SC No.37 of 2022 on the file of the Additional District Court (Fast Track), Theni to any other court near the district for the purpose of trial and pass any order or orders.

For Petitioner : Mr.Henri Tiphagne

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.S.G.L.Rishwanth

For 3rd Respondent : No appearance



Crl.O.P.(MD)No.11387 of 2023

O R D E R

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This criminal original petition has been filed seeking transfer of the case in SC No.37 of 2022 on the file of the Additional District Court (Fast Track), Theni to any other court near the district for the purpose of trial.

2.The facts in brief:-

The de-facto complainant is working as an Auto Driver and his younger brother Mathan was practicing as an Advocate in Uthamapalayam Court. There was a land dispute between one Rajakantham and her son Vijayan, for that the de-facto complainant's brother namely Mathan was engaged as an Advocate for the said Vijayan. One Ranjithkumar (A1) was engaged as an advocate on the side of the Rajakantham. Due to professional motive, on 06/03/2020, the said Ranjithkumar was killed near Poomalai Theatre. Upon the above said occurrence, a case in Crime No.147 of 2020 was registered for the offences under sections 147, 148, 149, 302, 120-B and 109 of IPC against 12 persons. In that case, the de-facto complainants's brother namely Mathan was arrayed as A2. The said case is pending before the Additional Sub Court, Theni.



Crl.O.P.(MD)No.11387 of 2023

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3. In these circumstances, on 17/11/2021 at about 10.00 am, the de-facto complainant's brother Mathan went to Uthamapalayam Court in his two-wheeler Hero Honda Splendor TN-05-M-2721. As per the instruction of one Pothuraja, Advocate, he picked up one Aandavar in his two-wheeler and went to Uthamapalayam for preparing affidavit. Then the de-facto complainant's brother Mathan took the said Aandavar in his two-wheeler and started from Uthamapalayam court. At that time, the De-facto complainant and his mother Gomathi also followed the said Mathan separately in his two-wheeler. At about 12.00 noon at Divisional Engineer Quarters, National Highways, Uthamapalayam-Cumbum main road, due to the previous motive, the A1 in his Bolero Car TN-22-AW-9868 hit against the Mathan's two wheeler. Due to it, he fellt down and then the accused persons attacked him brutally with deadly weapons and threatened with dire consequences and caused grievous injuries and escaped from the scene of occurrence. The de-facto complainant's brother Mathan, the de-facto complainant and his mother and others took the said Mathan and the Aandavar in an auto to the Government Hospital, Uthamapalayam, but said Mathan was died at 12.20 pm due to the brutal attack of the accused persons. Thereafter, the defacto complainant lodged a complaint before 2nd respondent police. On the basis of



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Crl.O.P.(MD)No.11387 of 2023

the complaint given by the de-facto complainant, a case in Crime No.733 of 2021 was registered for the offences under sections 109, 302, 324 and 506(ii) of IPC. On completion of investigation, charge sheet has been laid as against the accused persons for the offences under sections 279, 302, 324 and 506(ii) of IPC r/w 34 of IPC and the same was taken on file in S.C.No.37 of 2022 by the Additional District Judge, Fast Track Court, Theni.

4. Seeking transfer of the case in SC No.37 of 2022 on the file of the Additional District Judge, Fast Track Court, Theni, this criminal original petition has been filed by the petitioner on very many grounds.

5. Heard both sides.

6. It is seen that on 06/03/2020, one Ranjith Kumar, who is the brother of the de-facto complainant was murdered by Jeya Prabhu and others, over which, a case in Crime No.147 of 2020 was registered, on 06/03/2020. The case was tried in SC No.120 of 2021 by the Additional District Judge, Fast Track Court, Uthamapalayam. Now the cross examination of the witnesses are over.



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Crl.O.P.(MD)No.11387 of 2023

7.Subsequent to that, another occurrence said to have been taken place, over which, a case in Crime No.239 of 2019 was registered on the file of the Gudalur Police Station. Investigation in that matter was also completed and now the trial is pending before the Sub Judge, Uthamapalayam, in SC No.28 of 2022.

8.Another case in Crime No.240 of 2019 was registered against this petitioner and others, on the basis of the complaint given by Jeyaprabhu. After completing the investigation, final report was also filed. It is also stated to be pending in the very same court in SC No.164 of 2021. Another case in Crime No.733 of 2021 was registered against the petitioner and others for the offences under sections 324, 506(ii), 302 and 109 of IPC. Now it is stated to be pending before the Additional District and Sessions Judge (FTC), Theni in SC No.37 of 2022.

9.As stated above, two murder cases involving the murder and retaliation murder and another two other assault cases are pending between the parties. Taking advantage of the fact that the accused Jeya Prabhu continuously involved in the criminal activities, taking photographs, PW2 Sugumaran went to the place of burial



Crl.O.P.(MD)No.11387 of 2023

ground of the petitioner's brother along with rowdy elements.

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10. Another accused Chokkar was assaulted and threatened the witnesses, over which another case in Crime No.252 of 2022 was registered on the file of the Uthamapalayam Police Station.

11. Now the grievance of the petitioner is that the accused Chokkar and his relative Archana continuously threatened the main witness in SC No.84 of 2022. Again another case in Crime No.718 of 2022 was registered against the Chokkar and others on the file of the Gudalur Police Station.

12. On the basis of the continuous threat, this petitioner moved before this court seeking police protection. Now enquiry was taken by the competent authority regarding the threat.

13. Now it has been stated by the petitioner that he is receiving continuous threat from the accused persons. So on the above said factual circumstances, if the trial is undertaken by the Additional District Judge, Fast Track Court, Theni, the petitioner appearing before the trial court, his life will also be in danger.



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14.As stated above, several cases were registered against both parties, as an equal to the murder of the brother of this petitioner.

15.The learned Government Advocate (Criminal side) also filed a status report stating that the trial court completed the trial in SC No.120 of 2021 by the Additional District and Sessions Judge, Theni and except A6, A7 and A10, others were convicted. Totally seven cases are registered against two groups of people, one headed by the accused Jeya Prabu and other headed by Vijayan and this petitioner. There was a land dispute between the parties, over which continuous occurrences said to have taken place. Two murder cases took place, apart from the other IPC offences. Both parties involved in threatening the witnesses. So far as this petitioner/A2 is concerned, no complaint was received by the 1st respondent police regarding threat. Now it is posted for cross examination of the witnesses.

16.According to the learned Government Advocate (Criminal side), at this length of time, there is no necessity for transferring the trial process.

17.Narration of the above said facts, as stated above indicates that both are involved in threatening the



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Crl.O.P.(MD)No.11387 of 2023

witnesses in several cases. If the trial is conducted in the Additional District Judge, Fast Track Court, Theni, as mentioned above trouble again may arise.

18. So in the light of the above said facts, I am of the considered view that since continuous trouble exists between the parties in that locality, it is proper to transfer the case to some other distant Court taken up the trial process, without going into the other aspects,

19. In the result, this criminal original petition is **allowed**. The case in SC No.37 of 2022 pending on the file of the Additional District and Sessions Court (Fast Track Court), Theni is transferred to 1st Additional District and Sessions Judge, Dindigul. The Transferrer Court is directed to send the entire records to the transferee Court as early as possible. After receiving the case bundle, the Transferee court is directed to take the case on its file, assign a new number and issue notice to the accused and the prosecution for appearance as per law. Consequently, connected Miscellaneous Petition is closed.

Index:Yes/No
Internet:Yes/No

15/12/2023

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Crl.O.P.(MD)No.11387 of 2023

To,

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- 1.The Additional District and Sessions Judge,
Fast Track Court, Theni.
- 2.The I Additional District and Sessions Judge,
Dindigul.
- 3.The Inspector of Police,
Uthamapalayam Police Station,
Theni.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.O.P.(MD)No.11387 of 2023

G. ILANGO VAN, J

CrI.OP (MD) No.11387 of 2023

15/12/2023



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Crl.O.P.(MD)No.11387 of 2023

15/12/2023