



Crl.O.P.(MD).No.20340 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:11.12.2023

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THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD).No.20340 of 2022
and Crl.M.P.(MD).No.14094 of 2022

Velraj

... Petitioner

Vs.

1.Divyadevi

2.Minor.Lingesh

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to withdraw M.C No.2/2020 on the file of the Judicial Magistrate Court, Vilathikulam and transfer the same to the file of the Learned Judicial Magistrate Court No.IV, Madurai.

For Petitioner : Mrs.A.Banumathy

ORDER

This Criminal Original Petition filed to withdraw M.C No.2/2020 on the file of the Judicial Magistrate Court, Vilathikulam and transfer the



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same to the file of the Learned Judicial Magistrate Court No.IV,
Madurai.

2. This petition is filed by the husband of the respondent herein seeking transfer of the case. The respondent has filed M.C.No.2 of 2020 before the Judicial Magistrate Court, Vilathikulam, Thoothukudi District. According to the learned counsel for the petitioner, the petitioner is a physically challenged person (congenital eye defect). He is working as a Treasurer at the Collector Office, Madurai. He has to travel 170 kilometers to attend the Court proceedings in Vilathikulam. He further submitted that he has also filed a petition in H.M.O.P.No.195 of 2020 before the Family Court, Madurai, seeking restitution of conjugal rights. pending the said matrimonial proceedings, this petitioner is filed.

3. A report is called for from the trial Court and the same is received. It is stated in the report that the case was originally registered in the year 2020. The petitioner also entered appearance through an advocate, who has also filed a counter affidavit and the matter was posted for enquiry. P.W.1 was examined on 26.02.2021 and was cross



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examined on 14.09.2021 and 22.09.2021. Petitioner side evidence was closed and posted for respondent side evidence on 17.03.2022. On 03.03.2023, the respondent was set ex-parte and a petition in Crl.M.P.No.429 of 2023 was filed to set aside the ex-parte order and the same was allowed. Now it is posted for marking of documents on the side of the petitioner herein. He was also examined as R.W.1 and for further cross examination posted to 15.12.2023.

4. The above said evidence shows that the petitioner has participated in the enquiry process and after three long years this petition came to be filed, seeking transfer of investigation, on the simple ground that he is a disabled person. Eventhough a certificate is also enclosed along with the typed set of papers, it is seen that the petitioner is working in the Collector Office and attending duty. He cannot take advantage of the disability.

5. Since the petitioner was also examined as R.W.1 and the case was posted for further examination, I find no reason to transfer the proceedings to another Court. If the petitioner is unable to attend the



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Court regularly, he can engage an advocate. His personal appearance before the trial Court is dispensed with on the following conditions:

(i)The petitioner shall appear before the learned Judicial Magistrate No.IV, Madurai, within a period of 15 days from the date of receipt of a copy of this order and file an undertaking affidavit, by affixing his recent passport size photograph, to the effect that he will appear before the trial Court as and when required and must ensure his proper representation through Advocate.

6. Since the enquiry process is almost over, let the enquiry be completed within a period of two months from the date of receipt of a copy of this order.

7. With this direction, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

11.12.2023

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

1. The Judicial Magistrate No.IV, Madurai.



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G.ILANGOVAN,J.

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