



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 05/04/2023

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)No.22671 of 2022
and
Cr1.MP(MD)No.16020 of 2022

Anthonyammal : Petitioner/De-facto Complainant

Vs.

1.The Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli District.
(Crime No.144 of 2017): 1st Respondent/Complainant

2.Muthukumar
3.Murugan
4.Boobathiraja
5.Senthil
6.Esakkiappan
7.Esakkimuthukumar
8.Maharajan
9.Kathir

: Respondents 2 to 9/A1 to A8

PRAYER:- This Criminal Original Petition has been filed under section 407 of the Criminal Procedure Code, to set aside the impugned order passed by the Principal Sessions Judge, Tirunelveli in Tr.Cr.M.P No.7091 of 2022, dated 09/11/2022 and pass order to withdraw and transfer SC No.128 of 2020 from the file of the III Additional Sessions Judge, Tirunelveli to the I Additional Sessions



For Petitioner : Mr.Aiyiram K.Selvakumar

For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

For R2 to R8 : Mr.C.Sarvanakumar

This criminal original petition has been filed seeking to set aside the impugned order passed by the Principal Sessions Judge, Tirunelveli in Tr.Cr.M.P No.7091 of 2022, dated 09/11/2022 and pass an order to withdraw and transfer SC No.128 of 2020 from the file of the III Additional Sessions Judge, Tirunelveli to the I Additional Sessions Judge, Tirunelveli to be tried along with SC No.406 of 2018 for joint trial.

One John Paul, who is the son of this petitioner was implicated in Crime No.143 of 2017, which was registered for the offence punishable under section 302 IPC.



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3.The case of the prosecution, in that matter, is that John Paul suspected the fidelity of his wife and at his instigation and abetment, the murder was committed, on 14/05/2017 and this petitioner was also implicated in the above said crime. Now the trial court is going on before the I Additional District and Sessions Judge, Tirunelveli, in SC No.406 of 2018. As a retaliation of the above said alleged murder, the relatives of Pon Essaki namely the wife of her son, caused damage to the petitioner's house, over which, a case in Crime No.144 of 2017 was registered and now it is also pending trial before the III Additional District and Sessions Judge, Tirunelveli, in SC No.128 of 2020.

4.Since both the occurrences are interconnected with each other, it is possible that both the cases are tried by one of the same court, either jointly or simultaneous.

5.Seeking transfer, this petition has been filed.

6.Heard both sides.



7.From the preamble portion, it is seen that SC Nos.406 of 2018 and 128 of 2020 are continuous transactions. The murder followed by ransack said to have been committed by the accused in SC No.120 of 2022. So it cannot be termed as case and counter case. If at all, as stated above, taken as continuous transaction. So it is desirable that both the cases are tried by the very same court, so that confliction of the finding can be avoided.

8.Per contra, the learned Additional Public Prosecutor would submit that if both the cases are tried by the very same court, there is every likelihood of creation of law and order problem. But this cannot be taken into account and it is for the police to control the situation, in order to avoid this sort of trouble.

9.So I am of the considered view that the trial court may be directed to try both the cases on the alternative dates, so that trouble may be avoided. On this sole ground, this petition is liable to be allowed.



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10. In the result, this criminal original petition is **allowed** and the case in SC No.128 of 2020 pending on the file of the III Additional District and Sessions Judge, Tirunelveli is withdrawn and transferred to I Additional District and Sessions Judge, Tirunelveli, before whom SC No.406 of 2018 is pending. Both the matters can be tried in alternative dates, but joint and simultaneous trial is not permitted. Consequently, connected Miscellaneous Petition is closed.

05/04/2023

Index:Yes/No
Internet:Yes/No

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To,
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- 1.The Principal Sessions Judge,
Tirunelveli.
- 2.The 1st Additional Sessions Judge,
Tirunelveli.
- 3.The 2nd Additional Sessions Judge,
Tirunelveli.
- 4.The Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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7

G.ILANGOVA, J

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