



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.2822 of 2024
and Crl.MP.No.1994 of 2024

K.Sampath

...Petitioner/Accused

.Vs.

C.Mahalingam

.. Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to transfer STC No.1108 of 2022, from the file of the learned Judicial Magistrate, Pappireddipatti, Dharmapuri to any other Court.

For Petitioner : Mr.Prakash Goklaney

For Respondent : Mr.P.Kavitha

ORDER

This petition has been filed seeking for transfer of the case pending in STC. No.1108 of 2022, on the file of Judicial Magistrate, Pappireddipatti, Dharmapuri, to some other Court.



2. Heard Mr. Prakash Goklaney, learned counsel for the petitioner and Mr. P. Kavitha, learned counsel for the respondent.

3. The respondent/complainant has initiated a private complaint against the petitioner for offence under Section 138 of the Negotiable Instruments Act, 1881. Earlier, one Saravanan had initiated proceedings against the petitioner for offence under Section 138 of the Negotiable Instruments Act, 1881 in STC No. 27 of 2022, before the same Court viz., Judicial Magistrate, Pappireddipatti. In this case, even though the petitioner was acquitted from the charge, the Court went ahead and directed the petitioner to deposit a sum of Rs. 1,15,000/-. This was put to challenge by the petitioner in CrI.RC.No. 1962 of 2023, before this Court. This Court had called for an explanation from the learned Judicial Magistrate as to how such a direction was given after the petitioner was acquitted from the case.

4. The grievance of the petitioner is that after the above explanation was sought for from this Court, the attitude of the learned Judicial Magistrate became adverse against the petitioner. The learned Judicial Magistrate was not willing to grant any adjournment to the petitioner and the petitioner felt that he will not get any justice before the concerned Magistrate. It is under these circumstances, the present transfer petition was filed before this Court.

5. In the considered view of this Court, this Court has to see as to whether

there is a *prima facie* ground for the petitioner to apprehend that he will not get



justice before the trial Court. It is not necessary that the petitioner must be able to prove bias. It is enough if the petitioner is able to make out a ground to satisfy the Court that it will not be desirable to continue with the case before the same Judicial Officer. In the instant case, the ground that has been raised by the petitioner is a plausible ground which creates an apprehension in the mind of the petitioner that he will not get proper justice before the concerned Judicial Magistrate. In view of the same, this Court is inclined to withdraw the case and transfer the same to the Court at Krishnagiri.

6.The petitioner had earlier filed a quash petition before this Court and this Court was not inclined to entertain the quash petition on the ground that only factual disputes were raised which can be raised only before the trial Court. This Court had also directed that the proceedings will be completed within a period of three months.

7.Keeping the above in mind, the proceedings in STC No.1108 of 2022, pending on the file of Judicial Magistrate, Pappireddipatti, is withdrawn and transferred to the file of Judicial Magistrate Court No.I, Krishnagiri. The case bundle shall be transmitted within a period of two weeks. Judicial Magistrate Court No.I, Krishnagiri Court shall assign a new number to the case and the case shall be completed within a period of three months thereafter.



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8.In the result, this criminal original petition is allowed with above terms.
Consequently, connected miscellaneous petition is closed.

20.03.2024

Index: Yes/No
Speaking Order/Non Speaking Order
kp

To

1.Judicial Magistrate
Pappireddipatti
Dharmapuri.

2. Judicial Magistrate Court No.I
Krishnagiri.

CRL.O.P No.2822 of 2024