



Criminal Original Petition No.6136 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.6136 of 2024

and

Crl.M.P.No.4473 of 2024

K.Manickam

S/o.Late Kannappa Chettiar

...Petitioner

Vs

The State represented by
Station House Officer,
Gingee Police Station,
Villupuram District.
Crime No.23 of 2013

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to set aside the order dated 29.02.2024 made in Crl.M.P.No.2433 of 2023 on the file of Principal District and Sessions Court, Villupuram, by transferring the case in C.C.No.263 of 2013 on the file of learned Judicial Magistrate, Gingee, to some other Court within Villupuram District.



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For Petitioner : Mr.N.Manoharan
For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below in CrI.M.P.No.2433 of 2023 dismissing the application filed by the petitioner seeking for transfer of the case in C.C.No.263 of 2013 on the file of learned Judicial Magistrate, Gingee, to any other Court.

2. Heard Mr.N.Manoharan, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.

3. In the instant case, there was a case in counter, which was investigated by the respondent police in Crime Nos.23 and 24 of 2013. Crime No.23 of 2013 pertains to the complaint given against the petitioner and others and Crime No.24 of 2013 pertains to the complaint given against



the *de facto* complainant in this case. In line with the judgment of the Apex Court in *Nathilal vs. State of U.P.* [1990 SCC (Crl.) 638], the Court below had proceeded to conduct the trial pertaining to Crime No.23 of 2013, which ended in C.C.No.263 of 2013 before the Court below and the case was at the stage of pronouncing judgment as on 09.09.2020. Since there was no progress thereafter and no incumbent in the Court for more than two years, the petitioner filed a transfer petition before the Court below seeking to transfer the case to some other Court of competent jurisdiction. It is to be noted that this was the only ground that was raised by the petitioner in the transfer petition.

4. The Court below, while dealing with the transfer petition, has gone ahead and made certain observations against the petitioner and has also come to a conclusion that the judgment was not able to be pronounced due to the non-appearance of the accused persons. The Court below has also issued directions to all the accused persons to appear before the Court below and directed the trial Court to pass final judgment. If the accused persons



fail to appear, the trial Court was also directed to secure the accused persons.

5. As stated supra, there is a case in counter and the counter case in Crime No.24 of 2013 also resulted in filing of final report, which is pending before the learned Judicial Magistrate, Gingee, in C.C.No.276 of 2013. In this case, the examination of witnesses is yet to commence. The Apex Court in *Nathilal's* case, referred supra, has evolved a procedure for dealing with a case in counter. The Court below cannot pronounce any judgment in C.C.No.263 of 2013 without completing the trial in C.C.No.276 of 2013. After the completion of the trial in both the cases, separate judgment will have to be pronounced in both the cases. However, the Court below has directed the trial Court to pronounce judgment in C.C.No.263 of 2013 immediately by securing the accused persons. Such direction given by the Court below is not in accordance with law. In order to ensure that the case is not further prolonged, this Court can issue direction for the completion of the trial in C.C.No.276 of 2013 since there is an incumbent available in the



Judicial Magistrate Court, Gingee.

6. In the light of the above discussion, the observations and directions issued by the Court below in C.M.P.No.2433 of 2023, dated 29.02.2024, are hereby set aside. Learned Judicial Magistrate, Gingee, is directed to proceed further with the trial in C.C.No.276 of 2013 and complete the proceedings within a period of three (3) months.

7. The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon'ble Supreme Court reported in ***Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Crl) 288 SC]***. After the completion of the trial in C.C.No.276 of 2013, separate judgments shall be pronounced in C.C.No.263 of 2013 and C.C.No.276 of 2013 in line with the judgment of the Apex Court in ***Nathilal's*** case.

N.ANAND VENKATESH, J



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This Criminal Original Petition is disposed of in the above terms.

Consequently, connected miscellaneous petition is closed.

13.03.2024

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

1.The Principal District and Sessions Court,
Villupuram.

2.The Judicial Magistrate, Gingee.

3.The Station House Officer,
Gingee Police Station,
Villupuram District.
Crime No.23 of 2013

4.The Public Prosecutor,
High Court, Madras.

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