



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.1708 of 2024

1.G.Elangovan

2.Jaya

3.Ilavarasi

...Petitioners

Vs.

Mrs.Uma Maheshwari

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order of allowing the transfer of case from Metropolitan Magistrate, Additional Mahila Court, Egmore to XIV Metropolitan Magistrate, Egmore, Chennai, by the Principal Sessions Judge dated 01.11.2023 made in Crl.M.P.No.18432 of 2023 in DVC No.176 of 2017.

For Petitioner : Ms.R.Megha

For Respondent : M/s.S.Shujath Hussain

ORDER

This criminal original petition has been filed challenging the order passed by the Court below in Tr.Crl.M.P.No.18432 of 2023, dated 01.11.2023, wherein, the domestic violence case which was pending on the file of the Additional Mahila



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Court, Egmore was withdrawn and transferred to the file of the XIV Metropolitan Magistrate Court, Egmore.

2. Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondent.

3. The respondent had filed a domestic violence case before the Additional Mahila Court, Egmore. This was taken on file in DVC No.176 of 2017. According to the respondent, she apprehended that she will not get fair justice before the presiding officer and to justify the same, she had raised various grounds and on those grounds, the transfer petition was filed before the Court below.

4. It is seen from the order passed by the Court below that notice that was issued to the petitioners was received and there was no representation on the side of the petitioners. Therefore, the Court below based on the materials available on record proceeded to pass final orders on 01.11.2023 and the case was transferred to the file of the XIV Metropolitan Magistrate Court, Chennai.

5. The learned counsel for the petitioners submitted that the summons that was issued to the petitioners showed the case as Tr.C.M.P.No.18432 of 2023 and whereas, it was actually Tr.CrI.M.P.No.18432 of 2023. Since the petitioners were not able to



identify the case, they were not able to contest the transfer case and therefore, an opportunity must be afforded to the petitioners.

6. On carefully reading the order passed by the Court below, it is seen that the Court below has applied its mind and has come to a conclusion that it will be too embarrassing to once again conduct the case before the Additional Mahila Court, Egmore. Therefore, in the interest of both the parties, the Court below transferred the case within Chennai to the XIV Metropolitan Magistrate. Even if the petitioners are given an opportunity in this case at this stage, no useful purpose will be served since the case cannot be conducted before the learned Additional Mahila Court, Egmore after so much of allegations have been made against the Judge. Therefore, it will be in the interest of both the parties to conduct the case before the XIV Metropolitan Magistrate, Chennai.

7. The further grievance that was expressed by the learned counsel for the petitioners is that the respondent/PW1 is not subjecting herself to cross-examination and the case is being dragged. The Court below has already fixed a time limit for the disposal of the case as one month. This time has expired long back. Considering the grievance expressed by the learned counsel for the petitioners and also of the fact that the domestic violence case is of the year 2017, there shall be a direction to the learned XIV Metropolitan Magistrate, Chennai to dispose of the case in DVC



N.ANAND VENKATESH, J

SSR

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No.176 of 2017, within a period of six weeks from the date of receipt of copy of this order. On completion of the proceedings, a report shall be submitted before this Court.

8.This criminal original petition is disposed of in the above terms.
Consequently, connected miscellaneous petition is closed.

01.02.2024

Index: Yes/No

Speaking order/Non-speaking Order

Neutral Citation: Yes/No

ssr

To

1.The Metropolitan Magistrate, Additional Mahila Court, Egmore.

2.The XIV Metropolitan Magistrate, Egmore, Chennai.

3.The Public Prosecutor,
High Court, Madras.

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