



*Crl.O.P.(MD)No.12696 of 2024*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2024

CORAM

**THE HON'BLE MR.JUSTICE K.MURALI SHANKAR**

Crl.O.P.(MD)No.12696 of 2024

and

Crl.M.P.(MD)No.7806 of 2024

Santhakumari

... Petitioner

Vs.

1.State rep by  
Sub Inspector of Police,  
Arumanai Police Station,  
Kanyakumari District.  
(Crime No.250 of 2022)

2.Satheesh

... Respondents

**PRAYER :** Criminal Original Petition filed under Section 528 of BNSS, to withdraw C.C.No.77 of 2023 on the file of the learned Judicial Magistrate No.I, Kuzhithurai and to transfer the same to any one of the learned Judicial Magistrate Court in Kanyakumari District.

For Petitioner : Mr.B.Brijesh Kishore

For R1 : Mr.K.Sanjai Gandhi  
Government Advocate (Crl. Side)



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## **ORDER**

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The Criminal Original Petition has been filed seeking orders to withdraw C.C.No.77 of 2023 on the file of the learned Judicial Magistrate No.I, Kuzhithurai and to transfer the same to any one of the learned Judicial Magistrate Court in Kanyakumari District.

2. The petitioner/first accused is facing the case in C.C.No.77 of 2023 for the offence under Section 392 IPC. Admittedly, the trial of the case is at fag end.

3. The petitioner, by levelling some allegations against the Judicial Officer, has filed an application in Crl.M.P.No.1874 of 2024 before the Principal Sessions Court, Kanniyakumari District at Nagercoil for transferring the case in C.C.No.77 of 2023 from the file of the Judicial Magistrate No.1, Kuzhithurai to any other Judicial Magistrate Court in Kanniyakumari for further proceedings and the learned Principal Sessions Judge, upon considering the materials available on record and on hearing both the sides, has passed an order dated 13.06.2024 dismissing the transfer application.



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4. The main contention of the petitioner is that when the petitioner was in judicial custody, the learned Judicial Magistrate examined P.W.1 to P.W.3 on 16.03.2023 and thereafter only on the petition filed by the petitioner, P.W.1 was recalled and cross examined on 13.04.2023, that the defacto complainant had threatened the petitioner by saying that if the presiding officer of the said Court continues there, she will be in jail, that the activities of the learned Magistrate made the petitioner to suspect as when P.W.1 was cross-examined by her advocate, the learned Magistrate refused to record the answer given by P.W.1, that during cross-examination, P.W.1 answered that only after she raised noise, the other witnesses came to the scene of occurrence and by that time, the accused persons went in a bike in the opposite direction and therefore she could see only their back and they did not see the face of the accused and that the said evidence was refused to be recorded by the learned Magistrate and the same would go to show personal bias.

5. The next contention of the petitioner is that the learned Magistrate has shown special interest in this case to punish the petitioner and his conduct appears to be doubtful.



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6. The petitioner has raised the very same allegations before the Principal Sessions Court and the learned Principal District Judge, by observing that the petitioner did not cross examine the witness on 16.03.2023, when her chief examination was completed, that on 13.04.2023, P.W.1 has been recalled and cross-examined, that P.W.1 has been cross examined exhaustively on behalf of the second accused and subsequently the witness was cross examined on behalf of the first accused also and that if really an incident of that sort where the Judicial Officer had refused to record what was stated by the witness had happened, no lawyer would have continued to cross examine the witness and nothing prevented the counsel for the accused or the accused to have stopped the cross examination and filed at least a memo regarding the alleged incident, dismissed the petition.

7. It is not the case of the petitioner that they have raised objections and filed a memo to that effect before the learned Magistrate. Except making allegations that the learned Magistrate has shown special interest to punish the petitioner, they have not produced any material or cited any circumstances to substantiate the same.



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8. The learned Principal District Judge, after considering the case putforth by the petitioner, by observing that the allegations are made against the Judicial Officer casually and if that is entertained, no Judicial Officer will be spared and not a single case could be proceeded with, dismissed the application.

9. Considering the facts and circumstances of the case, this Court has no hesitation to hold that the above petition is devoid of merit and the same is liable to be dismissed.

10. In the result, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

**09.09.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
csm

To

- 1.The Sub Inspector of Police,  
Arumanai Police Station,  
Kanyakumari District.
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.



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**K.MURALI SHANKAR,J.**

csn

Order made in  
Crl.O.P.(MD)No.12696 of 2024  
and  
Crl.M.P.(MD)No.7806 of 2024

Dated: 09.09.2024