



*Crl.O.P.(MD)No.17677 of 2024*

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 17.10.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**Crl.O.P.(MD)No.17677 of 2024**

The Sessions Judge (FAC),  
Special Court for Exclusive Trial of Cases  
under SC/ST (POA) Act, Sivagangai.

... Petitioner

vs.

1.The Deputy Superintendent of Police,  
Sivagangai Sub Division.

2.State,  
Rep. by the Inspector of Police,  
Sivagangai Taluk Police Station,  
Sivagangai.  
Crime No.115 of 2024

... Respondents 1 and 2/Complainants

3.Malaikannan

4.Santosh Kannan

... Respondents/A1 and A2

5.Indhirani

... Respondent/Defacto Complainant

**Prayer:-** Petition filed under Section 482 of Cr.P.C., to transfer the case in Spl.S.C.No.18/15 on the file of the Sessions Judge, Special Court for Exclusive trial of Cases under SC/ST (POA) Act, Sivagangai to any other competent Court.



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For Petitioner : No Appearance

For Respondents : Mr.R.M.Anbunithi  
Additional Public Prosecutor for R1 & R2

### **ORDER**

This is a case under old Cr.P.C. It is seen that the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act has submitted a letter that since he conducted the identification parade and is cited as a witness in the case, he cannot conduct the trial and therefore, requested that the case may be transferred to some other Court. Though normally the same will be done at the Principal District Judge Level, earlier since the criminal appeal in Crl.A(MD)No.32 of 2022 with reference to bail application was dealt with by this Court, the request was made as if it is related to the said case and it was listed before the concerned learned Single Judge. Thereafter, the learned Single Judge of this Court felt that the request was not related to the criminal appeal and therefore, directed that the matter be placed before the concerned Portfolio Judge. Accordingly, the matter is posted before this Court.

2.Be that as it may, under the proviso to Section 407(2), this Court can act either on a report of the lower court or the application of the



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party interested. However, since the transfer is within the same division, this Court cannot entertain unless the same is rejected by the learned Sessions Judge. But however, in this case, it can be seen that the learned Trial Judge wants to rescue from the case since he has been cited as a witness in this case.

3.In view of the peculiar facts and circumstances of the case and the communication being entertained by this Court, I am of the view that the request shall be treated as an application before the learned Principal District Judge, Sivagangai, himself and in the facts and circumstances of the case, he can withdraw the case to his own file and the case can be proceeded with further.

4.With the above directions, the Criminal Original Petition is disposed of.

**17.10.2024**

NCC : No  
sjj

To

1.The Sessions Judge, Special Court for Exclusive trial of Cases  
under SC/ST (POA) Act, Sivagangai.



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**D.BHARATHA CHAKRAVARTHY, J.**

sjj

2.The Principal District Judge, Sivagangai.

3.The Deputy Superintendent of Police,  
Sivagangai Sub Division.

4.The Inspector of Police,  
Sivagangai Taluk Police Station,  
Sivagangai.

5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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