



Crl.O.P.(MD)Nos.18893 and 18918 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)Nos.18893 and 18918 of 2024
and
Crl.M.P(MD)Nos.11694 and 11698 of 2024

Godwin Jose

: Petitioner
(in both petitions)

Vs.

1.State of Tamil Nadu,
The Superintendent of Police,
Kanyakumari District.

2.State through the Inspector of Police
Nagercoil Railway Police Station,
GRP Trichy District.
Crime No.64 and 63 of 2023.

: Respondents
(in both petitions)

PRAYER in Crl.O.P(MD) No.18893 of 2024 : Criminal Original Petition filed under Sections 447 r/w 529 of BNSS, to withdraw and transfer the case in C.C.No.30 of 2024 pending on the file of the Additional Mahila Court, Nagercoil, Kanyakumari District to any other competent Court in any other District.



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PRAYER in Crl.O.P(MD) No.18918 of 2024 : Criminal Original Petition filed under Sections 447 r/w 529 of BNSS, to withdraw and transfer the case in C.C.No.164 of 2024 pending on the file of the learned Judicial Magistrate No.I, Nagercoil, Kanyakumari District, to any other competent Court in any other District.

(in both petitions)

For Petitioner : Mr.R.Raja Mohan,

For Respondents : Mr.P.Kottai Chamy,
Government Advocate (Criminal Side)
for R1 to R3.

COMMON ORDER

Criminal Original Petition in Crl.O.P(MD) No.18893 of 2024 has been filed, invoking Sections 447 r/w 529 of BNSS, seeking orders to withdraw and transfer the case in C.C.No.30 of 2024 pending on the file of the Additional Mahila Court, Nagercoil, Kanyakumari District to any other competent Court in any other District.

2.Criminal Original Petition in Crl.O.P(MD) No.18918 of 2024 has been filed, invoking Sections 447 r/w 529 of BNSS, seeking orders to withdraw and transfer the case in C.C.No.164 of 2024 pending on the file of the learned Judicial Magistrate No.I, Nagercoil, Kanyakumari District, to any other competent Court in any other District.



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3.The petitioner, who is the first accused in Crime No.64 of 2023 and the defacto complainant in Crime No.63 of 2023, have filed the above petitions seeking transfer of the case in C.C.No.30 of 2024 pending on the file of the Additional Mahila Court, Nagercoil, Kanyakumari District to any other competent Court in any other District and to transfer the case in C.C.No.164 of 2024 pending on the file of the learned Judicial Magistrate No.I, Kanyakumari District to any other competent Court in any other District.

4. The petitioner is the first accused in C.C.No.30 of 2024 for the alleged offence under Sections 341, 323, 294(b), 506(i) IPC and Section 4 of TNPHW Act and is pending on the file of the Additional Mahila Court, Nagercoil. On the basis of the complaint given by the petitioner, FIR came to be registered in Crime No.63 of 2023, for the alleged offence under Sections 294(b), 323 and 506(i) IPC and after completing the investigation, charge sheet came to be filed and is pending in C.C.No.164 of 2024 on the file of the learned Judicial Magistrate No.I, Nagercoil.

5.The main contention of the petitioner is that both the cases are case and case in counter and are pending in different Courts.



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6.The learned Governance Advocate (Criminal Side) would fairly concede that both cases in Crime Nos.63 and 64 of 2023 are case and case in counter case.

7.At this juncture, the learned counsel for the petitioner would submit that the first accused in C.C.No.164 of 2024 is a Court Staff in the Additional District Court, Padmanabhapuram and hence, both the cases have to be transferred to some other District.

8.When a specific query was made to the learned counsel with regard to the Post of the first accused, he would say that they are not aware of the present Post.

9. The learned Government Advocate (Criminal Side) would submit that the one of the accused is working in the Court of Judicial Magistrate No.I, Padmanabhapuram and that by itself is not a ground to transfer the case as sought for by the petitioner.



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10.Since both the cases are case and case in counter case, both cases are to be tried by the same Court, as per the decision of Hon'ble Supreme Court in *Nathi Lal Vs. State of Uttar Pradesh* reported in (1990) SCC (Cri) 639.

11.In the result, these Criminal Original Petitions are allowed and the case in C.C.No.164 of 2024 pending on the file of the Judicial Magistrate No.I, Nagercoil, Kanyakumari District, is ordered to be withdrawn and transferred to the file of the Additional Mahila Court, Nagercoil, Kanyakumari District. The learned Judge, Additional Maila Court is directed to try the above case simultaneously with the case in C.C.No.30 of 2024, by following the decision of the Hon'ble Supreme Court in *Nathi Lal Vs. State of Uttar Pradesh* reported in (1990) SCC (Cri) 639. Consequently, connected Miscellaneous Petitions are closed.

30.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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K.MURALI SHANKAR,J.

das

To

- 1.The Judicial Magistrate No.I, Nagercoil,
Kanyakumari District.
- 2.The Additional Mahila Judge, Nagercoil,
Kanyakumari District.
- 3.The Superintendent of Police,
Kanyakumari District.
- 4.The Inspector of Police
Nagercoil Railway Police Station,
GRP Trichy District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD)Nos.18893 and 18918 of 2024
and
Crl.M.P(MD)Nos.11694 and 11698 of 2024

Dated: 30.10.2024