



Crl.O.P.(MD)No.19424 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.19424 of 2024

and

Crl.M.P.(MD)No.11982 of 2024

Venkatesh

... Petitioner

Vs.

The State Rep. by,
1.The Inspector of Police,
Tenaski Police Station,
Tenkasi District.

2.P.Arunachalam

... Respondents

PRAYER : Criminal Original Petition filed under Section 447 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to withdraw the case in C.C.No.176 of 2022, pending before the Judicial Magistrate Court, Tenkasi, Tenkasi District, and transfer same to any other Judicial Magistrate Court in Tirunelveli District.

For Petitioner : Mr.M.Dhinakar

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



Crl.O.P.(MD)No.19424 of 2024

ORDER

WEB COPY

The petitioner/accused in C.C.No.176 of 2022 has filed the present petition seeking to withdraw the case from the file of the Judicial Magistrate Court, Tenkasi, and to transfer the same to another Judicial Magistrate Court within Tirunelveli District.

2. The learned counsel for the petitioner submits that the second respondent/de-facto complainant is a practicing advocate at Tenkasi and a member of the Tenkasi Bar Association. The allegations in the case are that the petitioner created Facebook accounts named "Ilayabharatham Katchi" and "Common Man", and has been threatening officials under the guise of extorting money. Further, it is alleged that the petitioner received a fee from one Manikandan to file a case in the Madurai High Court, but failed to do so, leading to the registration of the case.

3. The petitioner claims that he lodged a complaint on 03.10.2017 with the State Human Rights Commission against Balamurugan, the Inspector of Police, Tenkasi, and Ravi, the Sub-Inspector of Police, Tenkasi, for fixing amounts and collecting money from complainants for



Crl.O.P.(MD)No.19424 of 2024

WEB COPY

investigation purposes. Further, the petitioner had also filed a complaint against Chella Pandian, the former Bar President of Tenkasi, before the Bar Council of Tamil Nadu and Puducherry, which resulted in a notice being issued to him on 10.06.2019.

4. The petitioner submits that these actions have caused hostility between him, the advocates, and the Police. In collusion, a false case has been initiated against him. The petitioner claims that although the charge sheet was prepared on 15.06.2022, no summons were served to him, and the case was kept pending to facilitate the issuance of a non-bailable warrant at the convenience of his opponents.

5. The petitioner further submits that while he obtained anticipatory bail from this Court, he is apprehensive that the trial will not proceed fairly. He submits that none of the advocates are being allowed to defend him effectively before the trial Court. The petitioner voluntarily appeared before the trial Court on 15.10.2024, and filed a discharge petition, which was dismissed on 17.10.2024. The petitioner expresses concerns over the speed and alacrity with which the Police and



Crl.O.P.(MD)No.19424 of 2024

the trial Court are proceeding. The witnesses have been examined between 29.10.2024 and 12.11.2024, with a few witnesses dispensed, and only three more witnesses (the Investigating Officers) are left to be examined.

6. Due to fear of injustice, the petitioner has refrained from cross-examining the witnesses, prompting this petition for a transfer of the case.

7. The learned Government Advocate (Criminal side) for the first respondent submits that the petitioner has repeatedly sent petitions threatening Government Officials and sincere officers. Specific complaints have been made against the Police and advocates, including a false complaint lodged with the State Human Rights Commission in 2017, which was dismissed due to lack of merit. The petitioner has also sent complaints against advocates to the Bar Council. The petitioner is acting as a middleman, enticing clients and then engaging advocates to conduct cases. This conduct has caused widespread grievances among the public and advocates.



Crl.O.P.(MD)No.19424 of 2024

WEB COPY

8. The learned Government Advocate (Criminal side) further submits that the petitioner appeared before the trial Court on 15.10.2024, and since then, five witnesses have been examined. Only three more witnesses remain to be examined. The learned Government Advocate (Criminal side) opposes the transfer, highlighting that it would incur additional costs for the witnesses and delay the case further.

9. This Court has carefully considered the submissions made by both parties, including the fact that the de-facto complainant (P.W.1) and P.W.2 are advocates practicing in the same Court, while P.W.3 and P.W.4 are independent observation witnesses. P.W.5 is a Police Constable, and L.W.3 to L.W.5 are also Police personnel.

10. This Court acknowledges the petitioner's concerns regarding fairness, given the hostile environment in which the trial is proceeding. The Investigating Officer, Balamurugan, against whom the petitioner lodged a complaint, is stationed in and around Tenkasi, and this has contributed to the petitioner's apprehension. Further, the petitioner has cited that the de-facto complainant and other witnesses are members of



Crl.O.P.(MD)No.19424 of 2024

the same local legal community, creating a potentially biased environment for the petitioner's defense.

11. In light of the above, this Court finds the petitioner's apprehension to be reasonable. Justice must not only be done, but it must be seen to be done. To ensure fairness and impartiality, the case in C.C.No.176 of 2022 is hereby transferred to the Judicial Magistrate Court No.III, Tirunelveli.

12. The petitioner is directed to deposit a sum of Rs.10,000/- into the credit of the case before the Judicial Magistrate Court No.III, Tirunelveli, upon transfer. This amount will be used as batta to pay the recalled witnesses.

13. The petitioner is permitted to cross-examine P.W.1 to P.W.5 and other witnesses on the day of their appearance, without seeking further time. The trial Court is directed to expedite the proceedings and ensure that the petitioner's rights to a fair trial are preserved.



Crl.O.P.(MD)No.19424 of 2024

WEB COPY

14. The learned Judicial Magistrate, Tenkasi, is instructed to transfer the case records to the Judicial Magistrate Court No. III, Tirunelveli, and the petitioner shall not cause any delays in the progress of the trial.

15. This Criminal Original Petition is allowed with the above directions. Consequently, connected Miscellaneous Petition is closed.

13.11.2024

NCC : Yes / No
Index : Yes / No
smn2

To

- 1.The Judicial Magistrate,
Tenkasi, Tenkasi District.
- 2.The Judicial Magistrate No.III,
Tirunelveli, Tirunelveli District.
- 3.The Inspector of Police,
Tenaski Police Station,
Tenkasi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.19424 of 2024

M.NIRMAL KUMAR, J.

smn2

Order made in
Crl.O.P.(MD)No.19424 of 2024

Dated: 13.11.2024