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Crl.O.P.(MD)No.21886 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.21886 of 2022
and
Crl.M.P.(MD)No.15424 of 2022

1.Jegadeesh

2.Rajesh @ Ratheesh

... Petitioners/A1 and A2

Vs.

The Sub Inspector of Police,
Kaliakkavilai Police Station,
Kanyakumari District.
Crime No.545 of 2012

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to transfer the case in C.C.No.275 of 2018 from the file of the learned Judicial Magistrate No.I, Padmanabhapuram to the Judicial Magistrate, Valliyoor.

For petitioners : Mr.A.Balakrishnan
For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

ORDER

This petition has been filed seeking to transfer the case in C.C.No.275 of 2018 from the file of the learned Judicial Magistrate No.I, Padmanabhapuram to the Judicial Magistrate, Valliyoor.



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2.The case of the prosecution is that due to some previous enmity, on 17.06.2012, the petitioners abused the defacto complainant in filthy language and threatened him with dire consequences. Hence, the defacto complainant made a complaint before the respondent police and the same was registered in Crime No.545 of 2012 against the petitioners for the offences punishable under Sections 294(b) and 506(ii) of IPC. After completion of investigation, the respondent police filed a charge sheet before the learned Judicial Magistrate No.I, Kuzhithurai and the same was taken on file as C.C.No.399 of 2014.

3.The learned counsel for the petitioner would submit that since the defacto complainant, is an advocate, belongs to Kuzhithurai Bar Association and pursuant to the resolution passed by the Bar Association, no one has appeared on behalf of the petitioners before the trial Court and thereby, the petitioner filed a petition before this Court in Crl.O.P.(MD)No.2700 of 2016 to transfer the case from Judicial Magistrate No.I, Kuzhithurai to Judicial Magistrate Court, Valliyoor and this Court vide order dated 27.09.2018 transferred the same to Judicial Magistrate Court, Padmanabhapuram and subsequently, the case was transferred to Judicial Magistrate No.I, Padmanabhapuram and renumbered as C.C.No.275 of 2018. Even before the Padmanabhapuram



Court, no Advocates have consented to appear on behalf of the petitioners. On 04.11.2022, the trial was opened and L.W.1 to L.W.3 were examined as P.W.1 to P.W.3 in chief. Because of the non-availability of Advocate to depend the case on behalf of the petitioners, the witnesses were not cross examined and the case was further posted to 09.12.2022 for the examination of other witnesses. Since no Advocates have come forward to appear on behalf of the petitioners, the petitioners approached District Legal Services Authority. The District Legal Services Authorities also appointed one Advocate, namely, Krishnamoorthy, but he also refused to appear on behalf of the petitioners and also return back the bundle to the petitioners. Hence, this Court may issue a direction to transfer the case in C.C.No.275 of 2018 from the file of the learned Judicial Magistrate No.I, Padmanabhapuram to any other Courts in the State of Tamil Nadu to conclude the trial and also the trial Court may provide an opportunity to the petitioners to engage the independent Advocate to defend themselves before the trial Court.

4.The learned Additional Public Prosecutor would submit that the threat was continuously posted by the Advocate and that the other Advocates did not appear on behalf of the petitioners and hence, this Court may issue a direction to transfer the case in C.C.No.275 of 2018



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from the file of the learned Judicial Magistrate No.I, Padmanabhapuram to the learned Judicial Magistrate No.VI, Madurai and also this Court may issue a direction to the learned Judicial Magistrate No.VI, Madurai to conclude the trial within a reasonable time as fixed by this Court.

5.In view of above, this Criminal Original Petition is allowed and the case in C.C.No.275 of 2018 is withdrawn from the file of the learned Judicial Magistrate No.I, Padmanabhapuram and transferred to the file of the learned Judicial Magistrate No.VI, Madurai. The learned Judicial Magistrate No.I, Padmanabhapuram, is directed to transmit the entire case records to the Judicial Magistrate No.VI, Madurai. Since L.W.1 to L.W.3 were closed without cross examination by the petitioners, the learned Judicial Magistrate No.VI, Madurai, is directed to re-open the case and provide an opportunity to the petitioner and also conduct cross examination of L.W.1 to L.W.3 and conclude the trial and dispose of the case within a period of 12 weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

20.02.2024

Index : Yes/No
Internet : Yes/No
NCC: Yes/No
SJI



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To

- 1.The Judicial Magistrate No.I, Padmanabhapuram.
- 2.The Judicial Magistrate No.VI, Madurai.
- 3.The Sub Inspector of Police,
Kaliakkavilai Police Station,
Kanyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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