



Crl.O.P.(MD)No.22435 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.22435 of 2024

1.Kamardheen @ Mohamed Kasim Kamrdheen

2.Jahir Hussain

: Petitioners

Vs.

State of Tamil Nadu rep., by

1.The Inspector of Police,
Ayakudi Police Station,
Dindigul District.
Crime No.120 of 2019

2.Birthoush Fathima

: Respondents

PRAYER : Criminal Original Petition filed under Section 447 of BNSS, to withdraw the case in S.C.No.108 of 2021 from the file of the Additional District and Sessions Judge (Fast Track) Palani and transfer the same to any other competent Court in Madurai District.

For Petitioners : Mr.S.Sankar

For R1 : Mr.A.Thiruvadikumar
Additional Public Prosecutor



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ORDER

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The petitioners, who are accused in S.C.No.108 of 2021 and facing trial for the offence under Sections 294(b) and 302 of IPC, had filed this transfer petition to withdraw the case in S.C.No.108 of 2021 from the file of learned Additional District and Sessions Judge (Fast Track), Palani, to any other competent Court in Madurai District.

2. The contention of the petitioners is that in this case, P.W.1 to P.W.10 had been examined and the case is now posted for 313 Cr.P.C., proceeding and for defense side witnesses. The grievance of the petitioners is that P.W.1 to P.W.9 were examined, when the previous Presiding Officer was there, who had noted down the demeanor of the witnesses P.W.1 to P.W.9. After his transferred, the present Presiding Officer had examined P.W.10 and P.W.11 and hence, in the principle of natural justice and fair trial provided under Section 326 Cr.P.C., the case could be transferred.

3. The learned Additional Public Prosecutor submitted that not in all cases, Section 326 Cr.P.C., cannot be invoked. Furthermore, the prayer of



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the petitioners, it is seen that the petitioners had not given the details what is the demeanor, which was recorded and what are the contradictions, which has been elicited from the evidence of P.W.1 to P.W.9. Further, if there is any contradictions or demeanor recorded, the same is there in the record, which can be looked into by the present Presiding officer. Further the prayer of the petitioners is that case to be transferred from Additional District and Sessions Court, Palani, to any Court in Madurai. The any Court in Madurai only states that the petitioners want to avoid Court at Palani and not to the Court, where the previous Presiding Officer is now presently serving. Without any details, the present petition is filed only to drag on the proceeding.

4. Considering the submissions and perusal of the materials, though the petition has been filed invoking Section 326 Cr.P.C., the petitioners are unable to give details about where the earlier Presiding officer is now serving. They have asked for a general transfer to any Court in Madurai, which cannot be entertained. Further, the recording of demeanor and contradictions, if any, which always available in the record, which can be looked and considered by the present Presiding Officer. Finding that in this case, examination of prosecution witnesses already completed and the



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case is at the final stage, at this juncture, this Court is not inclined to entertain this petition. Hence, this Criminal Original Petition is dismissed.

19.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
Rmk

To

- 1.The Additional District and Sessions Judge (Fast Track) Palani.
- 2.The Inspector of Police,
Ayakudi Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

Rmk

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