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Crl.O.P.No.8327 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.8327 of 2023
& Crl.M.P.No.5275 of 2023

Sivasankara Narayanan,
Son of Rajamanickam, Aged about 61 years,
No. 36, 2nd Cross Street,
Gubera Nagar,
Vengikkal Village and Post,
Trivannamalai Taluk & District. ... Petitioner/Complainant

/versus/

Selvam,
Son of Rajamanickam, Aged about 49 years,
Paddy Rice Business,
No. 1166/C, Parvathi Rice Mill Compound,
Thendral Nagar,
Vengikkal Village and Post,
Tiruvannamalai Taluk & District ... Respondent/Accused

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C.,
pleased to call for the records in C.C.No.1/2016, on the file of Judicial
Magistrate, Fast Track Court (ML), Tiruvannamalai and to set aside the same as
an abuse of process and pass such or further other orders.

For Petitioner : Ms.K.Abhirame
For Respondent : Mr.G.Muruges Kumar.



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ORDER

This petition has been filed to call for the records in C.C.No.1/2016, on the file of Judicial Magistrate, Fast Track Court (ML), Tiruvannamalai and to set aside the same as an abuse of process

2. Challenging the order passed by the Judicial Magistrate, FTC (ML), Tiruvannamalai, in C.C. No. 1 of 2016, and thereby transferring C.C. No. 1 of 2016 to the file of the Judicial Magistrate, Puducherry.

3. The petitioner is the complainant and the respondent is the accused. The petitioner filed a complaint for the offence under Section 138 of the Negotiable Instruments Act (N.I. Act). After trial, when the matter was posted for judgment, the trial Court, namely the Judicial Magistrate, Fast Track Court (ML), Tiruvannamalai, transferred the entire case to the file of the Judicial Magistrate, Puducherry, on the ground of Section 142-A of the N.I. Act.

4. The learned counsel for the petitioner submits that though the complaint was filed in the year 2014, has cognizance was only taken on 2017.



After the amendment, the Judicial Magistrate, FTC (ML), Tiruvannamalai has jurisdiction to try the case. Therefore, the amendment is not applicable to pending cases. It is relevant to extract the provision of Section 142-A of the N.I. Act.

Section 142-A: Validation for transfer of pending cases.

(i) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or direction of any court, all cases transferred to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, shall be deemed to have been transferred under this Act, as if that sub-section had been in force at all material times.

(ii) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1) and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the



territorial jurisdiction of that court.

(iii) If, on the date of the commencement of the Negotiable Instruments (Amendment) Act, 2015, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, before which the first case was filed and is pending, as if that sub-section had been in force at all material times.

The jurisdiction of the trial Court as contemplated under Section 142-A (2) of N.I Act is applicable and the relevant portion is extract below:

Section 142-A (2) of N.I Act.

(1).....

(2). Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section



142 or the case has been transferred to that court under sub-section (1) and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.

5. Therefore, the trial Court has rightly transferred the entire case bundle to the file of the Judicial Magistrate, Puducherry.

6. This Court finds no infirmity or illegality in the order passed by the trial Court. The entire bundle has now been transferred to the Judicial Magistrate, Puducherry. It is made clear that the trial court, namely the Judicial Magistrate, Puducherry, is directed to hear the arguments on both sides without eschewing the evidence which has already been recorded and to pronounce the judgment within a period of 12 weeks from the date of receipt of a copy of this order.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.



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Neutral citation : Yes/No
Speaking/non-speaking order

To,

1. The Judicial Magistrate, Fast Track Court (ML), Tiruvannamalai.
2. The Judicial Magistrate, Puducherry.



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G.K.ILANTHIRAIYAN, J.

bsm

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