



CRL.OP(MD) NO.7188 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL. O.P(MD) No.7188 of 2025

and

CRL M.P.(MD) No.5254 of 2025

M.Alaguraj

... Petitioner

Vs

1. M.Subramanian

2.Muthu Saravanan

3.The State of Tamil Nadu
rep. by the Inspector of Police,
Thalamuthu Nagar Police Station,
Thoothukudi Town,
Thoothukudi District.
(Crime No.179 of 2022)

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to transfer C.C.No.620 of 2023 pending on the file of the Judicial Magistrate No.II, Thoothukudi to any other competent Court situated outside the jurisdiction of Thoothukudi District preferably in Tirunelveli District for a fair and impartial trial.



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CRL.OP(MD) NO.7188 of 2025

For petitioner : Mr.S.Bharathy Kannan

For R3 : Mr.M.Sakthi Kumar,
Government Advocate (Crl.Side)

ORDER

This petition is filed by the petitioner to transfer the case in C.C.No. 620 of 2023 pending on the file of the Judicial Magistrate Court No.II, Thoothukudi to any other competent Court, situated outside the jurisdiction of Thoothukudi District preferably in Tirunelveli District.

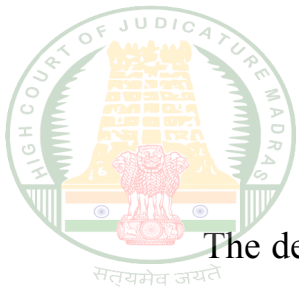
2. The learned counsel for the petitioner would submit that the petitioner is the *defacto* complainant in this case and based on the complaint, a case in Crime No.179 of 2022 was registered. The petitioner filed a petition before the learned Judicial Magistrate No.II, Thoothukudi under Section 156(3) of Cr.P.C. and the same was taken as private complaint in Crl.M.P.No.4758 of 2022 under Section 200 of Cr.P.C. and without proper reasons, the petition was dismissed. In fact, the petitioner stated that on 08.05.2022, his brother Arunachalam, who was admitted in Meenakshi Mission Hospital, informed that some unknown persons trespassed into his land situated at Devispuram and he asked the petitioner



CRL.OP(MD) NO.7188 of 2025

to go there. Based on the same, the petitioner along with one Jeyaraj went to the said place at about 8.30 p.m. At that time, the first respondent and another used filthy language against the petitioner and also threatened him with dire consequences. On 09.05.2025, at about 5.00 p.m., when the petitioner along with his friend Jeyaraj was near Savaripuram Church, the first respondent and another attacked the petitioner and threatened them and thereby, he admitted in the hospital on 10.05.2022 and discharged on 13.05.2022. Therefore, he made a complaint before the second respondent, but no action was taken. Therefore, he lodged a complaint before the learned Judicial Magistrate No.II, Thoothukudi under Section 156(3) of Cr.P.C., but the same was treated as private complaint and thereafter, it was dismissed, against which Crl.O.P.No.11583 of 2023 was filed and the same is pending.

3. He would further submit that the petitioner belongs to Scheduled Caste and as per SC/ST (POA) Act, the first petitioner is liable to be prosecuted under SC/ST (POA) Act, but his petition was treated as private complaint and the learned Magistrate dismissed the petition. The mistake committed by the petitioner's Advocate in the vakalat as "respondent's side" instead of "petitioner's side" was rectified by the learned Magistrate.



CRL.OP(MD) NO.7188 of 2025

The deposition of P.W.2 was taken on 13.12.2022 and he faced life threat from the accused. Thereafter, P.W.2 died before cross-examination on 15.01.2023, but the learned Magistrate mentioned as one Arumugam as P.W.2 and his deposition was taken as P.W.2 on 16.04.2024. The first respondent, being a Revenue Inspector, has a friend, namely, Kadakara Thangam, who is working in the District Court Campus, Thoothukudi and he has been influencing this case through back door. Therefore, it is just and necessary to transfer the case of C.C.No.620 of 2023 to some other district.

4. The learned Government Advocate (Crl.Side) for the third respondent would submit that the case is pending before the Trial Court and he is making allegations as against the learned Judicial Magistrate and he is making some allegations in respect of procedural violations. This case is arising out of private complaint.

5. This Court, considering the prayer sought for in this case, without issuing notice to the private respondents, is inclined to pass orders.

6. According to the petitioner, the petitioner is the *defacto*



CRL.OP(MD) NO.7188 of 2025

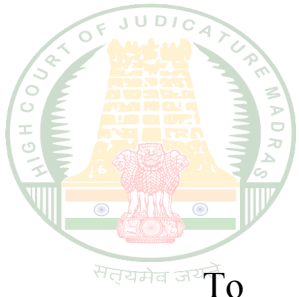
complainant in this case and he preferred a petition before the learned Judicial Magistrate-II, Thoothukudi, under Section 156(3) Cr.P.C., which was converted into Section 200 of Cr.P.C and assigned C.C.No.620 of 2023 and now, the case is pending. At the time of examination of the witnesses, there are some allegations regarding procedural violations. If so, it is the duty of the officer to verify those procedural violations and act in accordance with law and it is not a ground to transfer the case. Apart from that, there is no allegation to transfer the case and already the petitioner also challenged the cognizance taken by the Trial Court and the same is also pending before the Court in CrI.O.P.No.11583 of 2023. While so, again filing of this petition by the petitioner shows the intention of the petitioner to delay the proceedings. Therefore, without any valid grounds, this Court cannot transfer the petition and this petition has no merits and deserves to be dismissed.

7. In view of the same, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

22.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
apd



CRL.OP(MD) NO.7188 of 2025

To

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1.The Inspector of Police,
Thalamuthu Nagar Police Station,
Thoothukudi Town,
Thoothukudi District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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CRL.OP(MD) NO.7188 of 2025

P.DHANABAL,J

apd

CrI.OP(MD) No.7188 of 2025

22.04.2025