



CrI.O.P.(MD)No.12657 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.07.2025

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.O.P.(MD)No.12657 of 2025

and

CrI.M.P(MD)No.9849 of 2025

M.Kali @ Kaliraja

... Petitioner/A2

versus

State rep.by the Inspector of Police,
Cumbum North Police Station,
Theni District.
Crime No.290 of 2019.

... Respondent

Prayer : Petition filed under Section 447 of Bharatiya Nagarik Suraksha Sanhita, 2023, to transfer the case in C.C.No.368 of 2019 from the file of the learned Special Judge for Communal Clash Cases, Madurai, Madurai District to any one of the Court having competent jurisdiction to try the said case within the Sessions Division of any other District and further direct such transferee Court to adjudicate and dispose of the above said case at the earliest.

For Petitioner : Mr.S.Balaji,

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.



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ORDER

The petitioner has moved this petition, seeking a direction to transfer the case in C.C.No.368 of 2019 from the file of the learned Special Judge for Communal Clash Cases, Madurai, Madurai District to any one of the Court having competent jurisdiction.

2. The petitioner has taken the following grounds in support of his contention :

- a) The trial Court without even questioning the accused under Section 313 Cr.P.C., has posted the matter for judgment.
- b) The defence has been *suo motu* closed by the trial Court.
- c) The accused has filed a change of vakalat, however, it was returned and the case has been posted for judgment.

3. Though the petitioner has made serious allegations, he has not furnished the case details. Not even the diary extracts were filed. Therefore, this Court directed the petitioner to file the diary extract and passed over the matter.



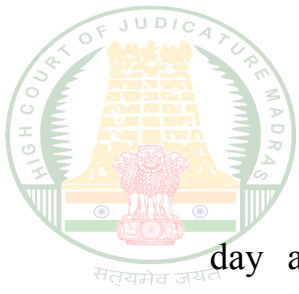
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4. When the matter was again taken up, the learned Additional Public Prosecutor has produced the diary extracts.

5. Heard both sides and perused the diary extracts.

6. On perusal of the diary extracts, it appears that summon was issued for appearance of L.W.7 on 04.02.2025. But, on that day, L.W.7 was not present and therefore, the case was adjourned to 04.03.2025. On that day, LW8 was examined as PW4 and documents were marked as Exs.P9 to P11 and the appearance of L.W.1, L.W.3 and L.W.5 were dispensed with. Thereafter, the case was adjourned on 06.03.2025 for examining the accused under Section 351 BNSS. On 06.03.2025, the accused was present and examined under Section 351 BNSS about the incriminating evidence let in by the prosecution. The accused denied the evidence as false and requested time to produce defence witnesses. For producing defence witnesses, the case was adjourned to 14.03.2025. On 14.03.2025, defence witnesses were not produced and therefore, again it was adjourned to 07.04.2025. On 07.04.2025, the defence witnesses were not produced and therefore, it was adjourned to 21.04.2025 and on that



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day also, defence witnesses were not produced and again, it was adjourned to 28.04.2025. On 28.04.2025, neither the defence counsel nor defence witnesses were present. However, the trial Court has provided another opportunity by adjourning the case to 05.05.2025. On 05.05.2025 also, neither the defence counsel nor the defence witnesses were present and therefore, for the purpose of producing the defence witnesses, the case was again adjourned to 09.05.2025 and on that day also, there was no representation and therefore, it was adjourned to 15.05.2025. On 15.05.2025, the defence counsel has not appeared and the defence witnesses were not produced and therefore, the case was adjourned to 21.05.2025 as a last chance for producing the defence witnesses. Even on 21.05.2025, the defence witnesses were not produced. Therefore, it was adjourned to 10.06.2025. On 10.06.2025 the defence witnesses were not produced, therefore it was again adjourned to 19.06.2025 and 08.07.2025. On 08.07.2025, the defence witnesses were not produced and the defence counsel was also not present and the case was adjourned to 15.07.2025. Even on that date, the same situation prevailed. Therefore, the trial Court *suo motu* closed the defence on 15.07.2025 and posted the case for judgment on 29.07.2025.



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7. This Court is unable to find out any error in the orders of the learned Judicial Magistrate. The petitioner was provided ample opportunity. The case has been adjourned for not less than 14 hearing for the petitioner to produce the defence witnesses. However, the petitioner has not produced the defence witnesses.

8. The allegation that without even hearing the accused under Section 313 of Cr.P.C., the case was posted for judgment, is also not correct. The accused were in fact examined about the incriminating materials under Section 351 of BNSS (313 of Cr.P.C) on 06.03.2025 itself. It is thereafter not less than 14 hearings have been provided to the petitioner to produce the defence witnesses and this petitioner has not availed the opportunity. Moreover, the petitioner's counsel has also not appeared before the trial Court. Therefore, this Court does not find fault with the trial Court.



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9. Accordingly, the Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed.

28.07.2025

Index : Yes / No.

Internet : Yes / No.

NCC : Yes / No.

das

To

1. The Special Judge for Communal Clash Cases,
Madurai, Madurai District.
2. The Inspector of Police,
Cumbum North Police Station,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

das

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