



Crl.O.P.(MD)No.13870 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2025

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)No.13870 of 2025
and
Crl.M.P.(MD)No.11101 of 2025

C.Chinnakaruppu

... Petitioner

versus

The State of Tamil Nadu, rep. by
The Inspector of Police,
Thenkarai Police Station,
Theni District.

...Respondent

Prayer : Criminal Original Petition filed under Section 447 of BNSS, seeking to transfer the case in C.C.No.642 of 2022 from the file of the learned Special Judge for Communal Clash Cases, 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 is the sole accused in C.C.No.642 of 2022 on the file of the learned Special Judge for Communal Clash Cases, Madurai. He is facing the charges for the offence under Sections 8(c) and 20(b)(ii)(B) of NDPS Act. The petitioner has filed this petition seeking to transfer the case in C.C.No.642 of 2022 from the file of the learned Special Judge for Communal Clash Cases, Madurai District, to any other competent Court in any other District. Further, a direction has been sought to the transferee court to conclude the trial in C.C.No.642 of 2022 within a stipulated time.

2. The learned counsel appearing for the petitioner submits that the final report is pending from the year 2022 and the respondent Police is not producing the witnesses before the trial Court in a proper manner. It is further submitted that the petitioner has been regularly appearing before the trial Court, but, the trial is not being conducted properly.

3. The learned Additional Public Prosecutor submits that the petitioner/accused has not co-operated for trial and he has not appeared for trial for several hearings.



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4. This Court considered the rival submissions made.

5. Section 447 of BNSS deals with the power of the High Court to transfer cases and appeals in certain situations such as when it appears a fair and impartial trial is not possible in the concerned court, when some question of law of unusual difficulty is likely to arise, etc.

6. It is pertinent to note that the power of High Court under Section 447 BNSS is to be exercised only in exceptional circumstances and not in a causal manner. In *Usmangani Adambhai Vahora vs. State of Gujarat & Anr.* reported in **2016 (3) SCC 370**, the Hon'ble Supreme Court has observed as follows:

“11. The aforesaid passage, as we perceive, clearly lays emphasis on sustenance of majesty of law by all concerned. Seeking transfer at the drop of a hat is inconceivable. An order of transfer is not to be passed as a matter of routine or merely because an interested party has expressed some apprehension about proper conduct of the trial. The power has to be exercised cautiously and in exceptional situations, where it becomes necessary to do so to provide credibility to the trial. There has to be a real



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apprehension that there would be miscarriage of justice.”

7. In the present case, other than merely alleging that a fair trial is not possible, no relevant circumstance has been pointed to lead to such an inference. As held by the Hon'ble Supreme Court in *Abdul Nazar Madani Vs. State of Tamil Nadu and Anr*, reported in *2000 (6) SCC 204*, the apprehension of not getting a fair and impartial inquiry or trial is required to be reasonable and not imaginary based upon conjectures and surmises.

8. Therefore, this Court is not inclined to accept the request of the petitioner to transfer the case in C.C.No.642 of 2022 from the file of the learned Special Judge for Communal Clash Cases, Madurai District to any other Court on the grounds raised by the petitioner.

9. The case is of the year 2022. This Court is not aware of the details of the pendency of cases before the concerned Court. As held by the Hon'ble Supreme Court in *High Court Bar Association Allahabad vs. The State of Uttar Pradesh (2024 INSC 150)*, constitutional courts, in the ordinary course, should refrain from fixing a time bound schedule for the disposal of cases pending before any other Courts.



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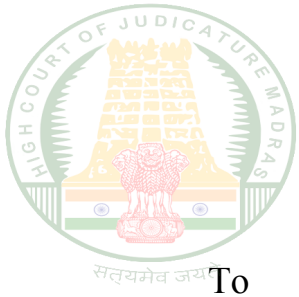
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10. In view of the order of the Hon'ble Supreme Court, this Court is not inclined to issue any direction to the trial Court to conclude the trial within a stipulated time.

11. Accordingly, this Criminal Original Petition is closed. However, considering the fact that the final report is pending from the year 2022, the trial Court is directed to conclude the trial as expeditiously as possible. The respondent Police is also expected to produce the witnesses without any delay. The trial Court shall not entertain the condone delay petitions in a mechanical manner. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
Internet: Yes
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To
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1. The learned Special Judge for
Communal Clash Cases,
Madurai District.
2. The Inspector of Police,
Thenkarai Police Station,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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