



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.10.2019**

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.20929 of 2018

A.Ramakrishnan

... Petitioner

Vs.

1.The Superintendent of Police,
District Police Office,
Sivagangai District, Sivagangai.

2.The Deputy Superintendent of Police,
Manamadurai,
Sivagangai District.

3.The Inspector of Police,
Manamadurai Police Station,
Manamadurai,
Sivagangai District.

4.Ilayaraja

... Respondents

(The 4th respondent impleaded as per
order of this Court dt;14.10.2019 in
Crl.M.P(MD)No.10004 of 2018)

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to transfer the case in S.C.No.291 of 2009 pending on the file of the learned Additional District and Sessions Court (PCR), Sivagangai to the 3rd Additional District and Sessions Court (PCR), Madurai or Additional District and Sessions Court (PCR), Srivilliputhur (Virudhunagar District) for fair trial on the petition of the petitioner, dated 27.07.2018 under Section 407(1)(a) of Cr.P.C.

For Petitioner : Mr.S.Radhakrishnan

For R1 to R3 : Mr. K.Suyambulinga Bharathi
Government Advocate (Crl.side)

For R4 : Mr.R.Balamuruganantham



O R D E R

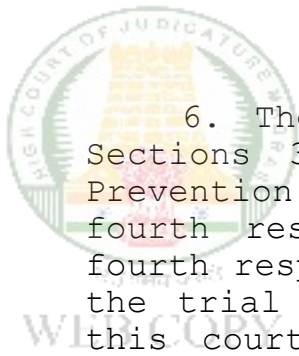
This petition has been filed to transfer the case in S.C.No.291 of 2009 pending on the file of the learned Additional District and Sessions Court (PCR), Sivagangai to the 3rd Additional District and Sessions Court (PCR), Madurai or Additional District and Sessions Court (PCR), Srivilliputhur (Virudhunagar District) for fair trial on the petition of the petitioner, dated 27.07.2018 under Section 407(1)(a) of Cr.P.C.

2.The learned counsel for the petitioner submitted that on 03.01.2006, when the daughter of the petitioner was alone in his house, the 4th respondent trespassed into the house of the petitioner and raped the petitioner's daughter. Thereafter, she was ashamed for the happening and on 04.01.2006 she poured kerosene on her body by herself and set ablaze. When the petitioner and the family members admitted to rescue her, they also sustained fire injuries and admitted in the hospital. The victim also gave dying declaration as against the fourth respondent herein. Thereafter, the second respondent has completed the investigation and filed a final report and the same has been taken cognizance. Since in the Sivagangai District there was no special Court to try the case under the PCR Act, the case was transferred to the 3rd Additional District and Sessions Court (PCR), Madurai for trial. Thereafter, the special Court has been situated at Sivagangai and as such, again the case has been transferred to the Additional District and Sessions Court (PCR), Sivagangai. Now, the case is pending for more than twelve years for trial.

3. It is also seen that the sole accused, who is practicing as an advocate in the same bar at Sivagangai. Therefore, the accused is hindering for conducting the trial and also using influence through Bar Association of Sivagangai and also threatened the petitioner with dire consequences. In fact, the petitioner also sent a representation to the Bar Council of Tamil Nadu, Puducherry and it is pending.

4. Per contra, the learned counsel for the fourth respondent submitted that the entire charges are false and a false complaint has been foisted as against the fourth respondent. Even according to the case of the prosecution, no case is made out as against the 4th respondent. Though, he is an practicing advocate in Sivagangai District, there was no material evidence to show that the fourth respondent threatened the petitioner with dire consequences. Therefore, he sought for dismissal of the transfer petition.

5. Heard both sides and perused the material available on record.



6. The fourth respondent was charged for the offences under Sections 376, 306 of IPC r/w 3(11) (5) & 3(1) (12) of SC/ST Prevention of Atrocity Act, 1989. The allegations as against the fourth respondent are very serious in nature. Admittedly, the fourth respondent is a practicing advocate at Sivagangai. Further, the trial is also pending for more than twelve years. Therefore, this court is of the view that, if the trial continues in the district of Sivagangai, the petitioner will not get a fair trial, since the fourth respondent is a advocate practicing in the same bar. Therefore, this Court finds that this is a fit case for transferring the present case to some other Court, for fair trial.

7. Accordingly, this Criminal Original Petition stands allowed, and the proceedings in S.C.No.291 of 2009, pending on the file of the learned Additional District and Sessions Court (PCR), Sivagangai, is withdrawn and the same is transferred to the file of the learned Additional District and Sessions Court (PCR), Virudhunagar. The trial Court namely, the Additional District and Sessions Court (PCR), Virudhunagar, is directed to complete the trial within a period of six months from the date of receipt of the bundle from the file of the Additional District and Sessions Court (PCR Court), Sivagangai.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

vsd

To

- 1.The Superintendent of Police,
District Police Office,
Sivagangai District, Sivagangai.
- 2.The Deputy Superintendent of Police,
Manamadurai, Sivagangai District.
- 3.The Inspector of Police,
Manamadurai Police Station,
Manamadurai, Sivagangai District.
- 4.The Additional District and Sessions Court (PCR),
Sivagangai.



5.III Additional District and Sessions Court (PCR),
Madurai.

6.Additional District and Sessions Court (PCR),
Srivilliputhur,
Virudhunagar District.

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

+1 CC to M/s.T.KUMAR, Advocate SR-95208.

+1 CC to M/s.S.RADHAKRISHNAN, Advocate SR-95161.

Crl.O.P. (MD) No.20929 of 2018

31.10.2019

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