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Crl.O.P.No.17181 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.06.2025

Coram:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

Crl.O.P.No.17181 of 2025

Crl.M.P.No.10787 of 2025

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Dr.Ranganathan

.. Petitioner

Vs.

Dr.Lakshmanan

.. Respondent

Criminal Original Petition filed under Section 528 of BNSS, to transfer the case in S.T.C.No.796 of 2024 pending trial on the file of the Judicial Magistrate No.I, Villupuram, Villupuram District to Judicial Magistrate Court at Puducherry Union Territory or to any other competent Court.

For petitioner : Mr.K.G.Senthil Kumar

For respondent : Mr.R.Singaravelan
Senior Advocate

For Mr.Aswin Kumar.A.



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ORDER

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This Criminal Original Petition has been filed under Section 528 of BNSS seeking transfer of the case in S.T.C.No.796 of 2024, which is pending on the file of the Judicial Magistrate No.I, Villupuram, to the Judicial Magistrate Court at Puducherry or any other competent court outside Villupuram District.

2. The petitioner has filed a private complaint under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881. He alleges that the respondent, who is a medical practitioner and also a sitting Member of the Legislative Assembly representing Villupuram Constituency, had borrowed a total sum of Rs.25 Crores in March 2021 to meet election-related expenses. To discharge this liability, the respondent is said to have issued five post-dated cheques, each for Rs.50 Lakhs. When presented, one cheque was returned with the endorsement "insufficient funds" and the remaining cheques were returned with the remark "payment stopped by the drawer." After issuing a statutory notice, the petitioner filed the complaint, which was taken on file as S.T.C.No.796 of 2024.

3. The learned counsel for the petitioner submitted that the respondent holds considerable political influence in the Villupuram District as a sitting MLA and District Secretary of the ruling party. It was argued that this influence could affect the fairness of the trial. It was also submitted that the trial court had permitted the



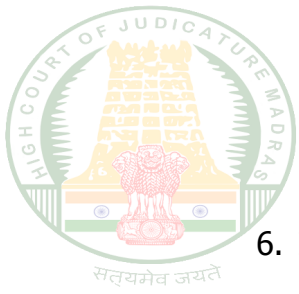
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withdrawal of the respondent's discharge petition based on an advance hearing application filed on 28.02.2025, without giving notice to the petitioner. Based on an enquiry regarding the court records, the petitioner claims that no such petition is available in the case file, which led him to file a complaint on 10.02.2014 before the Principal District and Sessions Judge, Villupuram, against the Presiding Officer and three staff members of the Magistrate Court. A sworn affidavit in support of the complaint was also forwarded to the Registrar of this Court. It was further submitted that the petitioner has made a police complaint regarding threats to his life and liberty, which is still pending. On these grounds, it was prayed that the case be transferred to Puducherry or any other suitable court where there would be no apprehension of bias.

4. On the other hand, the learned senior counsel appearing for the respondent opposed the petition and submitted that the allegations are vague, exaggerated, and unsupported by any reliable material. It was argued that the status of the respondent as a legislator does not, by itself, justify a transfer. It was pointed out that no order has been passed by the Magistrate that shows bias, and that the procedural grievances raised by the petitioner do not constitute valid grounds for seeking a transfer. It was argued that the petitioner is only trying to delay the proceedings and that the transfer would cause unnecessary hardship to the witnesses and parties, all of whom are based in or around Villupuram.

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

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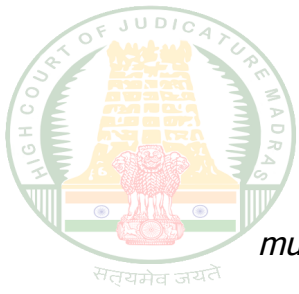


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6. In the present case, there is no order passed by the learned Magistrate that shows any kind of bias or unfair conduct. The fact that the respondent is a sitting MLA does not, by itself, mean that the trial court cannot hold a fair trial. The complaint made by the petitioner against the Magistrate and the court staff is still under inquiry, and no decision has been taken yet which would make this Court conclude that the Magistrate should not continue with the case. The power to transfer a criminal case must be used carefully and only when there is a genuine and reasonable fear that justice will not be done. That fear must be real and based on facts, not just a feeling or suspicion. The Hon'ble Supreme Court on several occasions has considered the issue of transfer of cases in different circumstances.

(i) The Hon'ble Supreme Court in ***Gurcharan Dass Chadha Vs. State of Rajasthan*** [AIR 1966 SC 1418], in para no.13 has held as follows:-

"13.A case is transferred if there is a reasonable apprehension on the part of a party to a case that justice will not be done. A petitioner is not required to demonstrate that justice will inevitably fail. He is entitled to a transfer if he shows circumstances from which it can be inferred that he entertains an apprehension and that it is reasonable in the circumstances alleged. It is one of the principles of the administration of justice that justice should not only be done but it should be seen to be done. However, a mere allegation that there is apprehension that justice will not be done in a given case does not suffice. The Court has further to see whether the apprehension is reasonable or not. To judge the reasonableness of the apprehension the State of the mind of the person who entertains the apprehension is no doubt relevant but that is not all. The apprehension



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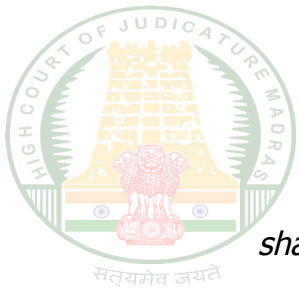
must not only be entertained but must appear to the Court to be a reasonable apprehension."

(ii) The Hon'ble Supreme Court in the case of Captain **Amarinder Singh Vs. Parkash Singh Badal and others** [(2009) 6 SCC 260], has held in para nos.18, 19 and 20 as under:-

"18. For a transfer of a criminal case, there must be a reasonable apprehension on the part of the party to a case that justice will not be done. It is one of the principles of administration of justice that justice should not only be done but it should be seen to be done. On the other hand, mere allegations that there is apprehension that justice will not be done in a given case does not suffice. In other words, the court has further to see whether apprehension alleged is a reasonable or not. The apprehension must not only be entertained but must appear to the court to be a reasonable apprehension.

19. Assurance of a fair trial is the first imperative of the dispensation of justice. The purpose of the criminal trial is to dispense fair and impartial justice uninfluenced by extraneous considerations. When it is shown that the public confidence in the fairness of a trial would be seriously undermined, the aggrieved party can seek the transfer of a case within the State under Section 407 and anywhere in the country under Section 406Cr.P.C.

20. However, the apprehension of not getting a fair and impartial inquiry or trial is required to be reasonable and not imaginary. Free and fair trial is sine qua non of Article 21 of the Constitution. If the criminal trial is not free and fair and if it is biased, judicial fairness and the criminal justice system would be at stake,



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shaking the confidence of the public in the system. The apprehension must appear to the Court to be a reasonable one."

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(iii) The Hon'ble Apex Court in case of ***Usmangani Adambhai Vahora Vs. State of Gujarat and another*** [(2016) 3 SCC 370] considering the previous judgments of the Supreme Court has held:-

"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 apprehension that there would be miscarriage of justice."

In the present case, there is no material or circumstance which can justify invoking such extraordinary power of transfer. The apprehension expressed by the petitioner appears to be vague, general, and not based on any concrete incident or conduct of the Presiding Officer. There is no material to indicate that the Presiding Magistrate acted in a biased manner or failed to uphold the impartiality of judicial proceedings.

7. Even the petitioner's grievance regarding the withdrawal of the discharge petition, assuming it is true, is only a procedural matter that can be taken up before the same court or by filing the proper application. This, by itself, is not a valid reason to seek transfer of the case. Accepting such claims would open the door for parties to seek transfer of cases based on minor or disputed procedural issues.

8. It is also relevant to mention that the transaction, the witnesses, and both



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parties are all based in Villupuram, and there is no strong reason to shift the case to another district. Transferring the case at this stage will only cause delay and inconvenience to everyone involved.

9. This Court is of the view that the petitioner's fears are based more on personal feelings rather than actual facts. The reasons given are not strong enough to justify the transfer of the case. So far, the trial court has not passed any order that has affected the petitioner's rights or the fairness of the proceedings.

10. Accordingly, the Criminal Original Petition is dismissed. However, the trial court is directed to proceed with the case strictly in accordance with law, and to complete the trial as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

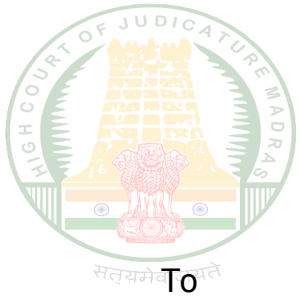
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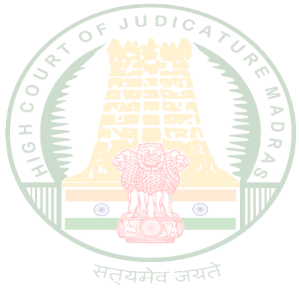
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To
The Judicial Magistrate No.I, Villupuram, Villupuram District.



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P.VELMURUGAN, J

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