

**IN THE COURT OF APPEAL OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA**

CA (Transfer) Application No: 291/2012

The Magistrate's Court of Panadura Case No. 00791.

Bulathsinghalage Chamali
No. 49,
Lionel Edirisinghe Mawatha,
Colombo 05.

PETITIONER

Vs.

Officer-in -Charge
Offences Branch,
Police Station,
Panadura.

Hon. Attorney General,
Attorney-General's Department,
Colombo 12.

RESPONDENTS

C.A.(Transfer)Appl. No. 291/2012-

M.C. Panadura
No.00791

Before : **S. Sriskandarajah, J. (P/CA)**

Counsel : Shantha Jayawardena for the
Petitioner

Dilan Rathnayake S.S.C. for the
Respondents

Argued &
Decided on : 06.11.2012.

S. Sriskandarajah, J. (P/CA)

The learned counsel for the petitioner supports the application for transfer. The learned counsel for the petitioner submits to court that the petitioner was charged for attempted murder in M.C. Panadura case No. 00791 and this incident has arisen in relation to a dispute of possession of a land in relation to which an application under section 66 of Primary Court Act had been filed. The learned Magistrate of Panadura made orders in that application under section 66 of the Primary Court Act. Thereafter there were complaints in

relation to the violation of the said order made by the learned Magistrate and proceedings had commenced against those who have violated.

The petitioner contended that an observation was made by the learned Magistrate in the course of the proceedings that he had made complaints to the J.S.C. against him for the transfer of earlier cases in relation to the same transaction and therefore the petitioner fear that he will not be given a fair trial before the same Magistrate.

The learned Senior State Counsel who is appearing for the respondents informs court that the respondents have no objection in transferring this case from the said Magistrate's Court.

In the given circumstances, it appears that the fair and impartial trial cannot be held in the Magistrate's Court of Panadura in relation to the

petitioner and therefore this court orders that M.C. Panadura case No. 00791 be transferred to the Magistrate's Court of Moratuwa and for the Magistrate Moratuwa to hear and conclude case No M.C. Panadura 00791.

Transfer application is allowed without costs.

PRESIDENT OF THE COURT OF APPEAL

/mds