

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

TRANSFER CRIMINAL PETITION No.251 of 2013

ORDER:

None appears for the petitioner.

The petitioner herein seeks transfer of C.C.No.210 of 2012 pending on the file of Judicial First Class Magistrate, Wanaparthi, Mahabub Nagar District to the Court of VII Special Metropolitan Magistrate, Hastinapur, Cyberabad, Ranga Reddy District.

It appears the 2nd respondent lodged a complaint for the offence punishable under Section 138 Negotiable Instruments Act, which is taken on file as C.C.No.210 of 2012. It is stated in the said C.C.No.210 of 2012 by the complainant, the 2nd respondent herein that the accused is known to him and he has borrowed a sum of Rs.2,00,000/- from the complainant for the purpose of meeting his necessities on 22.11.2010 and agreed to pay interest at the rate of 18% P.A. He has also executed two separate promissory notes for Rs.1,00,000/- each. Further, the accused has issued a cheque bearing No.638720 drawn on HDFC Bank, Gaddiannaram branch, Hyderabad on 09.04.2012 in a sum of Rs.2,50,000/-, the said cheque has been presented in the State Bank of India, Pebbair branch for collection and it was returned with an endorsement 'insufficient funds' on 23.04.2012. The complainant got issued a legal notice on 07.05.2012 and the accused received the same on 09.05.2012 and got issued a reply notice on 29.05.2012 through Sri Md.Habeeb and T.Mohan, advocates, Hyderabad.

The defence put up was that the petitioner herein borrowed an amount of Rs.20,00,000/- for his personal necessities on different dates in the year 2008-2009 from his friends and the complainant obtained blank cheques as security and several promissory notes from him and one such cheque has been unauthorizedly used by the 2nd respondent herein.

However, no tenable reasons are offered as to why the case should be withdrawn

from the Court of Judicial First Class Magistrate, Wanaparthi, Mahabub Nagar District and be transferred to the Court of VII Special Metropolitan Magistrate, Hastinapur, Cyberabad, Ranga Reddy District. The only reason set out was that his friends and relatives have already filed several cases namely Sri A.Venugopal Goud has lodged C.C.No.211 of 2012 on the file of Judicial First Class Magistrate, Wanaparthi, Mahabub Nagar District, Sri T.Koteswara Rao filed C.C.No.140 of 2013 on the file of IV Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District and Sri K.Venkateswarulu filed C.C.No.75 of 2013 on the file of VII Special Metropolitan Magistrate, Hastinapur, Cyberabad. It is therefore suggested that the present case also be transferred to the Court at Hastinapur.

The commonality between the cases filed against the petitioner is that he is the common accused and he is putting up a defence that the cheque in question has not been issued by him in discharge of a debt due.

I am afraid, the commonality of defence put up by the petitioner herein in several cases filed against him cannot be a factor for transferring of such cases to one such Court. The convenience of the complainant to prosecute the matter is an important factor. It is too well-known that if the complainant does not prosecute the matter diligently the cases are liable to be discharged, which will enure to the benefit of the accused. No reasons are assigned or spelt out as to whether the transfer sought for by the petitioner will not prejudice the defacto complainant, whereas the learned counsel for the defacto complainant/2nd respondent would submit that

the 2nd respondent is a resident of Wanaparthi, Mahabub Nagar District and hence it will be absolutely inconvenient for him to prosecute the matter at a different place and every time the case is posted he cannot rush to the Court at Hastinapur and prosecute the case, incurring huge expenditure.

Hence, I do not see any justifiable reason to transfer the case in question to the Court at Hastinapur, Cyberabad, Ranga Reddy District. Accordingly, the petition stands dismissed. No costs.

The miscellaneous applications, if any shall also stand dismissed.

JUSTICE NOOTY RAMAMOHANA RAO

08.06.2015

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