

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

TR.CRIMINAL PETITION No.129 of 2015

ORDER :

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This Transfer Criminal Petition is filed by the Petitioner/ Complainant under Section 407 read with 482 Cr.P.C seeking to transfer C.C. No.93 of 2013 from the file of Judicial Magistrate of the First Class (Excise Court) at Sangareddy to any other competent Court at Sanga Reddy.

2) Admittedly the subject case in C.C. No.93 of 2013 is a police warrant case and the respondents 2 to 5 herein are the accused Nos.1 to 4 therein. As far as Respondent Nos.3 to 5 herein concerned, the F.I.R itself quashed, they cannot be even shown as formal parties for not to be arrayed as accused. The 1st respondent is State represented by the Public Prosecutor.

3) The main grievance in expressing apprehension is that no fair trial being conducted at the present Court as the trial Court wants to alter the charges invoking Section 216 Cr.P.C and is expressing said opinion. Undisputedly, Section 216 Cr.P.C can be invoked by the Court or by any party for alteration (which includes even deletion) or addition or amendment of charges even after framing of charges once under Section 240 Cr.P.C and till pronouncement of judgment and the procedure in the case of alteration is also provided by law for any further recall of witnesses and further examination of witnesses. In this case trial is not yet commenced admittedly.

4) Needless to say the apprehension is without foundation to entertain the application even under Section 407 Cr.P.C muchless to invoke Section 482 Cr.P.C. The learned Magistrate since working on oath shall discharge his official duties fairly and honestly without even little prejudice in his mind, the accused or prosecution shall not have even little apprehension in their mind in regard muchless to attribute prejudice.

5) Having regard to the above and by virtue of the observations, it is left

open to the parties to submit arguments before alteration of charges required if any or not and then to decide on merits. If the Court wants to re-frame the charges invoking Section 216 Cr.P.C further remedy thereupon if any is left open to the parties.

6) Accordingly and subject to above observations, the transfer criminal petition is disposed of. As a sequel, miscellaneous petitions pending, if any, in this criminal petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

15.06.2015

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