

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

TRANSFER CRIMINAL PETITION NO. 216 OF 2013

ORDER:

None appears for the petitioner even today.

None appeared when the matter was called on the last occasion and there is also no representation of the petitioner when his name was called out.

The petitioner is the accused, while the first respondent is the *defacto* complainant in C.C. No.105 of 2009 on the file of the Additional Munsif Magistrate, Kandukur, Prakasam District, for an offence said to have been committed by the petitioner herein under Section 138 of the Negotiable Instruments Act. The petitioner seeks transfer of the said CC.No.105 of 2009 to any Court at Hyderabad. The two reasons spelt out in this regard are:

1. That the petitioner accused is normally a resident of Hyderabad and;
2. The first respondent-complainant is threatening with dire consequences.

I am afraid, there is no merit in these two grounds urged by the petitioner. If a part of cause of action has arisen at Kandukur and if the instrument has been presented as is agreed by both the parties at Kandukur, as at present advised, it will be difficult to describe the Kandukur Court as not competent to deal with the complaint. Since the respondent-*defacto* complainant is carrying on his business at Kandukur, it is only appropriate that his convenience should also be taken note off, as he is the one who has to prosecute the case and for any reason of his absence, the risk he will be running would be far more heavier than the risk of the respondent, inasmuch as, C.C.No.105 of 2009 will itself be dismissed.

For any reason, if the *defacto* complainant is truly threatening the petitioner herein, his remedy lies elsewhere by approaching the competent police officer so that, the necessary follow-up action can be taken against any such offender.

In that view of the matter, there is no justifiable reason for transferring C.C.No.105 of 2009 from Kandukur to Hyderabad. Additionally, it should be set out

that all the Courts in Hyderabad are flooded with thousands of cases and as a result, it will take long time for all of them to get their turn for disposal, whereas, there are only few hundred cases pending on the file of the Court of Additional Munsif Magistrate, Kandukur and consequently the trial itself will get concluded in quick time. Hence, looked at it from this perspective also, this C.C.No. 105 of 2009 cannot be transferred from Kandukur to Hyderabad and accordingly this transfer criminal petition is dismissed.

Consequently, miscellaneous applications pending if any shall also stand dismissed.

JUSTICE NOOTY RAMAMOHANA RAO

11.06.2015

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