

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

TRANSFER CRIMINAL PETITION No.185 of 2015

Between:

Boya Holagunda Rukmanda @ Rukappa

... Petitioners

and

The State of Andhra Pradesh rep. by its Public Prosecutor
and 5 others

... Respondents

DATE OF JUDGEMENT PRONOUNCED: 12-08-2015

SUBMITTED FOR APPROVAL:

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? Yes/No
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? Yes/No

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
TRANSFER CRIMINAL PETITION No.185 of 2015

ORDER :

This Petition is filed by the Petitioner under Section 407 Cr.P.C seeking to transfer S.C.No.314 of 2012 on the file of II Additional District and Sessions Judge, Kurnool at Adoni to the Court of the Principal District and Sessions Judge, Kurnool or to any other competent Court in the District.

2) Heard the learned counsel for the petitioner/defacto-complainant and also the 1st respondent-State represented by the Public Prosecutor before admission, before ordering notice to respondent Nos.2 to 6 and perused the material on record.

3) This application is moved by the defacto-complainant alleging that the learned II Additional Sessions Judge at Adoni of Kurnool District is insisting the investigating officer to conduct the prosecution for no regular public prosecutor for the in-charge public prosecutor is not regular in attending the Court which is contrary to Section 225 Cr.P.C that the prosecution shall be conducted by the Public Prosecutor alone and Section 302 Cr.P.C has no application for not a proceeding before the Magistrate so to permit and the other ground is alleged threat to the defacto-complainant from the report stated given by her on 07.01.2014 against the accused or others in Crime No.12 of

2014 for the offence punishable under Section 506 read with 34 I.P.C. where the police after investigation filed charge sheet in C.C. No.129 of 2014 which is pending for trial.

4) So far as the alleged incident dated 07.01.2014 and registering of crime and C.C. pending concerned, undisputedly as per the cause title, defacto-complainant is residing in his native place H.Maruvani Village, Peddakadubur Mandal and all the five accused persons shown are also of the same village and when they are residing in the same village, the alleged threat to the defacto-complainant is not a ground to consider, but for to observe it is the duty of the police to provide necessary assistance if they require specifically in writing for the adjournment dates to give evidence to escort them, for which the accused cannot complain if there is a written requisition from the witnesses of police escort for any threat from accused, as part of the witnesses' protection which the Court can take care of.

5) So far as the allegation of the Court insisting to conduct the prosecution by investigating officer concerned, there is nothing on record and it is not the case that there was no docket proceeding to that effect muchless any evidence so far let in in fact the pending of the case as contemplated by Section 226 Cr.P.C is by the public prosecutor including from framing of charges under Section

228 Cr.P.C after hearing to discharge under Section 227 Cr.P.C and charges already framed after hearing the public prosecutor who opened the case. To have no any little apprehension in the mind of the defacto-complainant, it is made clear that under Section 225 Cr.P.C it is mandate that the prosecution shall be conducted by a public prosecutor. However, the fact remains under section 24(8) Cr.P.C proviso of the amended Cr.P.C the Court may permit the victim to engage an advocate of her choice to assist the prosecution.

6) With the above observations the criminal petition is disposed of as there are no grounds to transfer the case. Consequently, the miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.12th August, 2015

KSH