

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

TRANSFER CRIMINAL PETITION No.49 of 2013

ORDER:

The petitioner herein sought for transfer of C.C.No.154 of 2011 pending on the file of Judicial First Class Magistrate, Udayagiri to any other Court in Nellore.

The petitioner herein was the accused in C.C.No.154 of 2011, which is instituted for the alleged commission of offence under Section 138 Negotiable Instruments Act. The primary reason for the petitioner to seek transfer of a case from out of Udayagiri is that the brother of the defacto complainant is working as a Police Constable at Udayagiri and therefore the petitioner apprehends danger to his life at the hands of the defacto complainant and/or his brother, a police constable.

In fact the petitioner moved the Sessions Court at Nellore by instituting the Transfer CrI.M.P.No.1732 of 2012, that application was dismissed by that Court on 21.02.2013 observing that the petitioner did not show an iota of evidence in support of the alleged threat and the alleged apprehension or danger to his life at the hands of the defacto complainant and/or his brother. More importantly learned Sessions Judge has noticed that the respondent gave affidavit stating that the allegations leveled by the petitioner are false and baseless and that both parties expressed readiness to settle the subject matter on the last date of adjournment before the learned Magistrate and thereafter the petitioner engineered a false complaint for securing transfer of the proceedings.

There is no material on record to contradict this order. At any rate, a police constable, assuming that he is stationed at Udayagiri can hardly cause any danger or threat to the petitioner. If for any reason the petitioner apprehends risk or danger, he is always entitled to bring to the notice of appropriate superior police officer about such apprehension or risk factor to his life. Similarly if a police constable is overstepping his limits of discipline, can easily be complained of to a superior officer, who can effectively discipline him in case the allegations leveled against such a constable are proved to be correct.

I, therefore, do not see any justifiable reason for transferring the criminal case from out of the Court at Udayagiri. Accordingly, this 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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