

THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Transfer Criminal Petition No. 286 of 2011

Order:

This Transfer Criminal Petition is filed seeking to transfer CC No.107 of 2011 from the file of the VI Additional Judicial Magistrate of First Class, Rajahmundry, to any Court at Hyderabad.

Heard both sides and perused the material on record.

It is a strange case where the second respondent-Chit Fund Company has filed the complaint against the petitioner-accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, at Rajahmundry, in view of the fact that they had a branch there and also bank account at Rajahmundry. Admittedly, the petitioner-accused was a subscriber to the chit maintained by Kapil Chit Funds Private Limited in a branch at Hyderabad. Chit auction was conducted at Hyderabad. The petitioner/accused is the resident of Hyderabad. The office of the Chit Fund Company is located at Hyderabad. The bid amount was paid to the petitioner/accused at Hyderabad. The petitioner/accused issued the cheque drawn on State Bank of Hyderabad, Puranapul branch, Hyderabad. But, the only thing the Chit Fund Company has done is, the said cheque was taken to Rajahmundry and presented there, in view of the fact that they had a branch there, and on its being dishonoured, they filed the present complaint at Rajahmundry. It is a clear case of harassing the petitioner/accused by the Chit Fund Company. When the entire transactions including the subscription of chit, auction of chit, payment of bid amount, issuance of cheque and dishonour of cheque were taken place at Hyderabad and when the office of the Chit Fund Company is at Hyderabad, it is but proper that the cheque ought to have been presented at Hyderabad. Since the cheque has been dishonoured at State Bank of Hyderabad, Puranapul Branch, Hyderabad, it is the Court at Hyderabad which has got jurisdiction to try the case, but not the Court at Rajahmundry, where the cheque was presented.

In the facts and circumstances of the case, it is a fit case where the case

needs to be transferred from the Court of the VI Additional Judicial Magistrate of First Class, Rajahmundry to a competent Court at Hyderabad.

Accordingly, the Transfer Criminal Petition is allowed. The case in CC No.107 of 2011 is withdrawn from the file of the VI Additional Judicial Magistrate of First Class, Rajahmundry, and transferred to a competent Court at Hyderabad. The VI Additional Judicial Magistrate of First Class, Rajahmundry, is directed to send the records in CC No. 107 of 2011 to the Court of the Chief Metropolitan Magistrate, at Hyderabad, and on receipt of the records, the learned Chief Metropolitan Magistrate, Hyderabad, shall transfer the said case to any competent Court at Hyderabad, taking into consideration the pendency of cases in the respective Court, for disposal in accordance with law. The entire exercise should be completed within a period of three (3) months from the date of receipt of a copy of this order and the trial of the said case should be completed within a period of three (3) months therefrom.

As a sequel thereto, the miscellaneous petitions, if any, pending in the Transfer Criminal Petition shall stand closed.

M.S.K. JAISWAL, J.

Date: 18.06.2015

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