

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Transfer Criminal Petition Nos.280, 281 and 284 of 2014

COMMON ORDER:

These Transfer Criminal Petitions are filed under Section 407 of Code of Criminal Procedure (Cr.P.C.) seeking to transfer C.C.Nos.158 of 2011 (relating to Tr.Crl.P.No.280 of 2014), C.C.No.112 of 2011 (relating to Tr.Crl.P.No.281 of 2014) and C.C.No.103 of 2011 (relating to Tr.Crl.P.No.284 of 2014) from the Special Magistrate Court No.1 at Rajendranagar, Ranga Reddy District to any Criminal Court in Nampally Criminal Courts, Hyderabad.

2) Since the *defacto* complainant and some of the accused in all the petitions are one and the same and grounds on which the transfer of the criminal cases sought for are also the same, these three transfer criminal petitions are disposed of by this common order.

3) The facts which led to file the transfer criminal petitions are thus:

a) The complainant's case is that his land bearing Sy.No.84 of Raidurg village was effected in road widening and hence District Collector allotted an alternative Government land in Sy.No.91 of Gachibowli and he has been in peaceful possession and enjoyment of the same. While-so on 19.07.2009 at about 10:30 am, the accused in C.C.No.103 of 2011 trespassed into the said land and tried to encroach the land and

broke open the door of the watchman room and they took away his transistor cell phone and bet him severely and when protested, they threatened him with dire consequences. On these allegations, he lodged FIR No.249 of 2009 in Raidurgam P.S and the police after investigation laid charge-sheet against the accused for the offences under Sec.341, 447, 427, 506 r/w 34 IPC and C.C.No.103 of 2011 (old C.C.No.862 of 2009) is now pending on the file of Special Magistrate Court No.1 at Rajendranagar.

b) While-so, the further case of the complainant is that when the matter relating to Crime No.294 of 2009 was pending, some of the accused along with some others again came to his site on 28.08.2009 and again threatened the watchman at the point of knife and it became difficult for the complainant to restrain them everyday and the complainant apprehended that the accused may dispossess him from the site illegally. With these allegations he lodged Crime No.294 of 2009 against the accused before Raidurgam P.S. Police, who after investigation laid charge-sheet against the accused for the offences under Sec.447, 506 r/w 34 IPC and C.C.No.112 of 2011 (old C.C.No.979 of 2009) is pending on the file of Special Magistrate Court No.1 at Rajendranagar.

c) Then the further case of the complainant is that when the above two cases are pending, on 20.12.2011 at about 2:00 pm, the accused trespassed into his site with the dead body of one Pruthvi Raj Singh, the father of Makhan Singh (A.1) and inspite of the protest made by watchman, they forcibly burnt the dead body

in the site of the complainant. Hence, the complainant lodged FIR No.483 of 2011 in Raidurgam P.S against accused and the police after investigation laid charge-sheet for the offences under Sec. 447, 427 and 506 IPC and C.C.No.158 of 2011 (old C.C.No.419 of 2012) is pending on the file of Special Magistrate Court No.1 at Rajendranagar.

4) Now the accused sought for transfer of the above three cases from the Special Magistrate Court No.1 at Rajendranagar on the submission that the disputed land is a burial ground being used by the public since last 60 years and the accused are not claiming any independent right therein and the complainant filed false cases against the accused to intimidate them. Their further version is that on 19.09.2014, C.C.No.103 of 2011 came up for cross-examination of PW.1 and when the learned defence counsel was cross-examining PW.1 by putting the relevant questions pertaining to the alleged offences and also with reference to the civil suits and writ petition pending between the parties and learned Magistrate made an unwarranted intrusion and obstructed the defence counsel from cross-examining him and for every question he sought explanation from the defence counsel as to why he was putting the said question and though learned defence counsel submitted that if the reason is explained, the witness would be alerted and thereby the purpose of the cross-examination would be defeated, learned Magistrate did not heed his request and added to above, learned Public Prosecutor used to intervene in the cross-examination and discuss with the witness in the box before the defence counsel

puts his next question. In those circumstances and other circumstances mentioned in the transfer applications, the petitioners/accused apprehend that they may not get fair trial and justice before the trial court in the three criminal cases.

Hence the transfer applications.

5) Heard both sides.

6) Now the point for determination is:

“Whether there are merits in these petitions to allow?”

7) **POINT**: Having heard the petitioners, this Court called for the report from the learned Magistrate of Special Magistrate Court No.1 at Rajendranagar, Ranga Reddy District and perused his report. This Court is of the considered view that in the interest of justice and fair trial, the three criminal cases have to be transferred to another Criminal Court for smooth completion of the trial.

8) In the result, the three Transfer Criminal Petitions are allowed and C.C.No.158 of 2012, C.C.No.112 of 2011 and C.C.No.103 of 2011 are transferred from the Special Magistrate Court No.1 at Rajendranagar, Ranga Reddy District to the VIII Metropolitan Magistrate's Court, Rajendranagar, Ranga Reddy District for disposal according to law within four (4) months from the date of receipt of this order.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 27.02.2015

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