

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

Transfer Criminal Petition No. 41 of 2011

Order:

This Transfer Criminal Petition is filed seeking to transfer CC No.373 of 2009 from the file of VI Additional Judicial Magistrate of First Class, Rajahmundry, to any competent Court at Warangal.

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 the second respondent-Kapil Chit Funds Private Limited in a branch at Warangal. Chit auction was conducted at Warangal. The petitioner/accused is the resident of Warangal. The office of the Chit Fund Company is located at Warangal. The bid amount was paid to the petitioner/accused at Warangal. The petitioner/accused issued the cheque drawn on DCB, Warangal. 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 Warangal and when the office of the Chit Fund Company is at Warangal, it is but proper that the cheque ought to have been presented at Warangal. Since the cheque has been dishonoured at Warangal, it is the Court at Warangal 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 VI Additional Judicial Magistrate of First Class, Rajahmundry to a competent Court at Warangal.

Accordingly, the Transfer Criminal Petition is allowed. The case in CC No.373 of 2009 is withdrawn from the file of VI Additional Judicial Magistrate of First Class, Rajahmundry, and transferred to a competent Court at Warangal. The VI Additional Judicial Magistrate of First Class, Rajahmundry, is directed to send the records in CC No. 373 of 2009 to the Court of the I Additional District and Sessions Judge, Warangal, and on receipt of the records, the learned I Additional District and Sessions Judge, Warangal, shall transfer the said case to any competent Court at Warangal, 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: 25.06.2015

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