

THE HON'BLE SRI JUSTICE Dr B. SIVA SANKARA RAO

Tr.CRL.P.No.117 of 2015

ORDER:

This transfer criminal petition is filed by the petitioners/ Accused 1 & 2 under Section 407 Cr.P.C., seeking to withdraw C.C.No.301 of 2015 on the file of the Judicial First Class Magistrate, Special Mobile Court, Kurnool and transfer the same to the Court of the Metropolitan Sessions Judge, Nampally, Hyderabad to be tried along with C.C.No.3 of 2015.

2. The 1st petitioner is A.1 in C.C.No.301 of 2015 pending on the file of the Judicial First class Magistrate, Special Mobile Court, Kurnool, where the learned Magistrate has taken cognizance for the offence punishable under Sections 420 and 506 IPC in Crime No.359 of 2011 of Kurnool II Town Police Station, Kurnool, and the 2nd petitioner is A.2 in C.C.No.3 of 2015 pending on the file of the Metropolitan Sessions Judge, Nampally, Hyderabad, where the Metropolitan Sessions Judge has taken cognizance for the offence punishable under Sections 420, 406 and 506 IPC and Section 5 of A.P.P.D.F.E Act in crime No.341 of 2011 of CCS, Hyderabad.

3. So far as C.C.No.301 of 2015 pending on the file of the Judicial First Class Magistrate, Kurnool supra is concerned the 3rd respondent is the de facto complainant, and on his report, the Station House Officer, II Town, Kurnool registered crime No.359 of 2011 for the offence supra investigated and filed the final report and that was taken cognizance by the learned Magistrate. Where the sum and substance is that the first accused, who is the son of the 2nd accused, claiming as Managing Director of Lahari Hardware

Networking Solutions and S.N. Imports and Exports running the business into crores of rupees and letting out a number of Innova Cars to Corporate Offices, hotels and Tourisms and supply of Laptops to schools and colleges in the entire State of A.P., and by saying so, he lured the public that if Rs.4 lakhs invested, he would pay Rs.30,000/- per month in the case of investment in Innova cars and investment in Lap-top business, which would be doubled within six months, and believing the words, the de facto complainant among several others invested huge amounts in good faith, and subsequently, the accused failed to pay, thereby, cheated, misappropriated and threatened for demands.

4. Coming to C.C.No.3 of 2015 pending on the file of the Metropolitan Sessions Judge supra is concerned, it is on the report of 3rd respondent self same to the CCS police, Hyderabad dated 22.12.2011 almost with allegations supra and further alleging that he collected the amounts in deposits and failed to pay and CCS police registered the above crime for the offences referred supra, and after investigation, filed the final report and that was taken cognizance by the learned Metropolitan Sessions Judge.

5. Now the petitioners/A.1 & A.2 sought for transfer of C.C. No.301 of 2015 from the file of the Judicial First Class Magistrate, Kurnool to Nampally where C.C.No.3 of 2015 is pending on the file of Metropolitan Sessions Judge, Nampally saying the witnesses are almost same, allegations are almost same and the de facto complaint is one and the same and it requires common trial.

6. The 3rd respondent served with notice, but failed to attend, hence taken as heard and heard the respective Public Prosecutors of both States and the learned counsel for the

petitioners/A.1 & A.2 and perused the material on record.

7. A perusal of the material on record shows in C.C.No.301 of 2015, LW.1-K.N.Muralidhar, the 3rd respondent to the transfer petition is same in both the cases and LW.2 one K. Ramu is LW.4 in C.C.No.3 of 2015 and LW.3 in C.C.No.301 of 2015 is LW.11 in C.C.No.3 of 2015 and LW.4 in C.C.No.301 of 2015 is LW.2 in C.C.No.301 of 2015 and others among LWs.1 to 9 in C.C.No.301 of 2015 and 3 more witnesses are Investigating Officers of Kurnool. Whereas in C.C.No. 3 of 2015, there are 30 witnesses some of them from Kurnool, some of them from West Godavari, some of them from Mahaboobnagar and some of them from Hyderabad, apart from the witnesses referred supra.

8. A perusal of the both the police final reports show that the scope of C.C. No.3 of 2015 is wider in ramification and the prayer to transfer C.C.No.301 of 2015 also to try with C.C.No.3 of 2015 as it is convenient for all. Apart from the above, the cases require simultaneous trial to dispose of both the cases by the same Court at a time, to appreciate the evidence independently even for convenience to the witnesses to attend the Court and give evidence apart from convenience to the accused to attend the Court and contest and to sub-serve the ends of justice.

9. Accordingly, the Transfer criminal petition is allowed and CC No.301 of 2015 is withdrawn from the file of Judicial First Class Magistrate, Special Mobile Court, Kurnool and transferred to the Metropolitan Sessions Judge, Nampally, Hyderabad to be tried along with C.C.No.3 of 2015.

Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

JUSTICE Dr B. SIVA SANKARA RAO.

Date : 02-11-2015

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