

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

TRANSFER CRIMINAL PETITION No.180 of 2015

Between:

K.Guruvaiah and 7 others

... Petitioners

and

The State of Andhra Pradesh rep. by the Public Prosecutor
and another

... Respondents

DATE OF JUDGEMENT PRONOUNCED: 10-08-2015

SUBMITTED FOR APPROVAL:

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? Yes/No
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? Yes/No

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
TRANSFER CRIMINAL PETITION No.180 of 2015

ORDER :

This Criminal Petition is filed by the Petitioners/Accused under Section 407 Cr.P.C. to withdraw C.C. No.144 of 2014 on the file of Special Judicial Magistrate of the First Class for Prohibition and Excise Cases, Kurnool and transfer the same to any Court having the jurisdiction to try the same in Kurnool District.

2) Heard at length the learned counsel for the petitioners and the 1st respondent-State represented by the Public Prosecutor before admission, before ordering notice to the 2nd respondent and perused the material on record.

3) There are no grounds to transfer the case sought for under Section 407 Cr.P.C to admit the application. The fact that some of the co-accused are left out by the victim or by the prosecution agency not a ground, but for right of accused/petitioners if any is in the course of cross-examination of prosecution witnesses and bring before the Court any such truth of the allegation for the Court to take recourse under Section 319 Cr.P.C if the facts permit.

4) The issuing of N.B.W is not a ground to attribute any prejudice to the Court for alleged non-giving of summons on transfer that too when it is not the case that in the earlier Court, the accused did not appear. It is stated summons

allegedly issued not served. No doubt in such a case this Court also can exercise the discretion and to subserve the ends of justice to direct the petitioners to move the trial Court by appearance for recall of warrant under Section 70(2) Cr.P.C with notice to A.P.P concerned and in such an event, by virtue of this order, the learned Magistrate shall recall and obtain bond under Section 88 Cr.P.C if any already obtained.

5) With the above observations, the Criminal Petition is disposed of. Consequently, the miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.10th August, 2015

KSH