

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER CRIMINAL PETITION No.219 of 2015

ORDER:

This transfer criminal petition is filed under Section 407 Cr.P.C., to withdraw S.C. No.269 of 2013 from the file of the court of Assistant Sessions Judge, Gudivada, Krishna District and transfer the same to the file of the court of Principal Assistant Sessions Judge, Nandyal, Kurnool District.

2. The petitioner is *de facto* complainant and the first respondent is accused in S.C. No.269 of 2013. A perusal of the record reveals that basing on the complaint lodged by the petitioner, the Station House Officer, Pamarru Police Station, Krishna District registered a case in Crime No.1 of 2013 for the offences under Sections 417, 420, 376 and 506 IPC against the first respondent. After completion of investigation, the Investigating Officer laid charge sheet against the first respondent under Sections 376, 313 and 506 IPC. The learned Sessions Judge, Krishna District, after satisfying with the material placed before him, has taken the cognizance of the offences under Sections 376, 313 and 506 IPC against the first respondent, numbered the charge sheet as S.C. No.269 of 2013 and made over the case to the Assistant Sessions Judge, Gudivada for disposal in accordance with law.

3. The predominant contention of learned counsel for the petitioner is that there is a threat to the petitioner if she goes to the court of Assistant Sessions Judge, Gudivada. As per the averments made in the affidavit filed in support of the petition, the petitioner has attended the court on 06.7.2015, 27.7.2015, 10.8.2015 and 24.8.2015 along with her mother. There is no need for the *de facto* complainant to attend the court for each and every date of adjournment like an accused. The petitioner has not filed copy of the proceedings sheet in S.C. No.269 of 2013 in support of the contention that she attended the trial court on the above dates. Admittedly, the petitioner has not given any

complaint to the Presiding Officer of the trial court with regard to the alleged threat from first respondent. If really the first respondent threatened the petitioner, what prevented her to inform the same to the Presiding Officer of the court. Mere apprehension by itself is not a valid ground to transfer the matter from one court to another court.

4. As per the allegations in the charge sheet, the petitioner and first respondent lived together for some time under the same roof at Syamalapuram of Pamarru. No part of cause of action arose within the territorial limits of Nandyal. As per Section 177 Cr.P.C., every offence shall ordinarily be tried by a court within whose local jurisdiction it was committed. Simply because the petitioner has been residing in Nandyal, that itself is not a legally valid ground to transfer the matter from Gudavada of Krishna District to Nandyal of Kurnool District.

5. While deciding the cases of this nature, the court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings. Almost all the witnesses except the petitioner (L.W.1) are residing at Pamarru. The distance between Gudivada and Nandyal is around 250 to 300 KMs. The prosecution may face much difficulty to take the prosecution witnesses to Nandyal from Pamarru. Likewise, the prosecution witnesses may also face much difficulty to travel from Pamarru to Nandyal. Except the averments made in the affidavit, nothing is placed before this court to substantiate the contention of the petitioner that there is life threat to her if she attends the court at Gudivada. The apprehension of the petitioner is not supported by any material much less legally admissible material. The possibility of filing of this petition in order to protract the matter cannot be ruled out completely. The learned Public Prosecutor, on instructions, submitted that the trial court has already issued summons to the witnesses fixing the schedule for trial from 18.1.2016. There are no grounds much less valid grounds to withdraw S.C. No.269 of 2013 from the court of Assistant Sessions Judge, Gudivada and transfer the

same to the court of Principal Sessions Judge, Nandyal, Kurnool District.

6. In the result, the transfer criminal petition is dismissed. Miscellaneous petitions, if any pending in this transfer criminal petition shall stand closed.

T.SUNIL CHOWDARY, J

December 28, 2015.

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