

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

TRANSFER CRIMINAL PETITION NO. 200 OF 2013

ORDER:

None appears for the petitioner even today.

None appeared even on the last occasion and there is no representation also on behalf of the petitioner when his name was called out.

The respondents 2 & 3 herein have moved Tr. CrI MP No.303 of 2012 before the learned Sessions Judge, Machilipatnam seeking transfer of CC.No.681 of 2011 pending on the file of the learned Judicial I Class Magistrate, Mylavaram to the Court of the Principal Assistant Sessions Judge, Vijayawada to be tried along with S.C.No.76 of 2012. The petitioners in the aforementioned Transfer Criminal MP, who are the respondents 2 & 3 herein are the accused in Sessions Case No.76 of 2012 on the file of the Principal Assistant Sessions Judge, Vijayawada. They are facing trial for the offence under Section 307 read with 34 I.P.C. The petitioner herein was cited as LW.1 in the said session case. When the second respondent herein filed a complaint against the petitioner herein, for an offence said to have been committed under Section 324 I.P.C, the said complaint was transferred into C.C.No.681 of 2011 on the file of the Judicial Magistrate of I Class, Mylavaram. Since, both the cases are arising out of the same incident, the respondents 2 & 3 herein sought for transfer of the said C.C.No.681 of 2011 to be tried along with the Sessions Case No.76 of 2012. In view of the facts narrated above, the learned Sessions Judge thought it appropriate that the case and the counter case must be tried together so that, the truth of the matter can be ascertained easily and that would also avoid passing of conflicting decisions by two different Courts. Challenging this order, the present petition has been filed. All that the petitioner would point out in this case was that by transferring C.C.No.681 of 2011 pending on the file of Judicial Magistrate of I Class at Mylavaram to be tried along with sessions case, in case, the judgment is rendered in the said case against the interests of the petitioners, he would be losing the right of appeal.

The super numerary difficulty which the petitioner narrated is not of paramount consideration. When a session's case arising out of the same incident is being tried,

it would only be appropriate that the other case arising out of the same transaction should also be tried, so that both the matters can be comprehensively dealt with by one Court. That would not only obviate the inconvenience of the parties in prosecuting the two cases in two different courts, but would also help in effectively mitigating the possibilities of two different and conflicting opinions being rendered by two different Courts. I, therefore, do not see any justifiable reason to set-aside the order passed by the learned Sessions Judge, Machilipatnam in Tr.Crl.MP.No.303 of 2012 and I do not see any justifiable reason to retransfer C.C.No.681 of 2011 back to the file of the learned Judicial I Class Magistrate, Mylavaram.

Hence, this transfer criminal petition is dismissed.

Consequently, miscellaneous petitions pending if any shall also stand dismissed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

11.06.2015

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