

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Transfer Criminal Petition No.174 of 2013

ORDER:

In this petition filed under Section 407 Cr.P.C., the petitioner in Crl.R.C.No.1785 of 2010 on the file of High Court seeks to transfer the connected Criminal Appeal No.391 of 2011 pending on the file of III Additional District and Sessions Judge, Kakinada, East Godavari, to High Court, Hyderabad, to be heard and disposed of along with Crl.R.C.No.1785 of 2010.

2) The petitioner's case is that he gave report against respondent Nos. 1 and 2, which was registered as Crime No.49 of 2008 by Pedapudi Police Station for the offences under Sections 341, 325 r/w 34 IPC and after investigation, police laid charge sheet against respondent Nos. 1 and 2 and the same was registered as C.C.No.449 of 2008 by learned III Additional Judicial First Class Magistrate, Kakinada. After full pledged trial, the learned Magistrate acquitted respondent Nos. 1 and 2 having found not guilty for the offences leveled against them. Initially, the State has not preferred any appeal against the said judgment and so, the petitioner, who is the *de facto* complainant having been aggrieved by the acquittal, filed Crl.R.C.No.1785 of 2010 and the same is pending. Sometime thereafter, the State filed Criminal Appeal No.391 of 2011 on the file of III Additional District & Sessions Judge, Kakinada, against the judgment in C.C.No.449 of 2008 and the same is also pending. Hence, the instant petition is filed by the

petitioner to order transfer of C.A.No.391 of 2011 from the file of III Additional District and Sessions Judge, Kakinada, to the High Court to be heard and disposed of along with Crl. R.C.No.1785 of 2010 to avoid possible conflicting decisions in the two matters.

3) Notice in the Transfer Criminal Petition was ordered to respondent Nos. 1 and 2, who are accused in C.C.No.449 of 2008. The postal acknowledgments show that both the respondents received the notices, but they have not put up their appearance either personally or through their counsel. Hence, heard the learned counsel for petitioner and the learned Public Prosecutor.

4) Learned Counsel for petitioner would submit that to avoid possible conflicting decisions and in the interest of justice, Crl.A.No.391 of 2011 may be ordered to be transferred to the High Court to decide the matter along with Crl.R.C.No.1785 of 2010.

5) Learned Public Prosecutor has not submitted any objection to this Court.

6) The facts show that Crl.R.C.No.1785 of 2010 pending on the file of High Court and Crl.A.No.391 of 2011 pending on the file of III Additional District and Sessions Judge, Kakinada, arose out of the same judgment in C.C.No.449 of 2008. So, it is expedient in the interest of justice and also to avoid possible conflicting decisions to transfer Crl.A.No.391 of 2011 to the

High Court.

7) Accordingly, this Transfer Criminal Petition is allowed and Criminal Appeal No.391 of 2011 is withdrawn from the Court of III Additional District and Sessions Judge, Kakinada, and transferred to the High Court to be heard and disposed of along with CrI.R.C.No.1785 of 2010 in the interest of justice.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 02/06/2016

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