

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER CRIMINAL PETITION No.314 of 2016

ORDER:

This Criminal Petition, under Section 407(1) Cr.P.C., is filed to withdraw M.C.No.48 of 2016 on the file of I Additional Junior Civil Judge, Tenali, Guntur District and transfer to the Court of Judge, Family Court, Ranga Reddy District at L.B.Nagar, Hyderabad.

The petitioner seeks transfer on two grounds. The first ground is that the petitioner apprehends danger to his life in the hands of the first respondent as he is receiving threats from her; and the second ground is that F.C.O.P.No.1235 of 2015 is pending on the file of Judge, Family Court, Ranga Reddy District, and the entire evidence to be adduced in the matters is available with him and the witnesses to be examined are the residents of Ranga Reddy District and, therefore, sought for withdrawal as stated supra.

So far as first objection of life threat is concerned, certainly, it is difficult for the petitioner to appear before the Court of I Additional Junior Civil Judge, Tenali, Guntur District, in the event of life threat, and to have fair trial, it is appropriate to provide necessary police protection to the petitioner. Hence, the learned I Additional Junior Civil Judge, Tenali, Guntur District, is directed to provide

necessary police protection to the petitioner whenever he attends Court in connection with M.C.No.48 of 2016 on receipt of requisition from him subject to bearing expenses, if any.

The second objection is with regard to pendency of F.C.O.P.No.1235 of 2015 on the file of Judge, Family Court, Ranga Reddy District. In F.C.O.P.No.1235 of 2015, the respondent is not required to appear on each and every date of adjournment since it is purely civil in nature except on the occasions where her presence is necessary. Moreover, M.C.No.48 of 2016, which is quasi civil in nature, the petitioner is required to attend in the Criminal Court and, if it is transferred to the Judge, Family Court, Ranga Reddy District, the respondent will have to travel from Tenali to Ranga Reddy District i.e. more than 300 Kms. incurring heavy expenditure on each and every date of adjournment. Added to that, if Maintenance Case is decided by a Judicial Magistrate of First Class, the petitioner will have an opportunity to file a revision before the District Court, but if it is tried and decided by the District Court, the petitioner will lose the opportunity of filing revision under Section 397 Cr.P.C.

Taking all these facts, pendency of F.C.P.No.1235 of 2015 before the Judge, Family Court, Ranga Reddy District, cannot be a ground to withdraw M.C.No.48 of 2016 from

the Court of I Additional Junior Civil Judge, Tenali, Guntur District.

Learned counsel for the petitioner requested to dispense with the appearance of the petitioner on each and every date of adjournment. Such power can be exercised by the learned I Additional Junior Civil Judge, Tenali, Guntur District under Rule 37 of Criminal Rules of Practice or Section 205 Cr.P.C. Therefore, the petitioner is directed to file an appropriate application before the learned I Additional Junior Civil Judge, Tenali, Guntur District where M.C.No.48 of 2016 is pending. On filing such application, and on issuing notice to the respondent, the learned I Additional Junior Civil Judge, Tenali, Guntur District, is directed to decide the application on the same day.

In view of my foregoing discussion, I find no ground to withdraw M.C.No.48 of 2016 from the Court of learned I Additional Junior Civil Judge, Tenali, Guntur District and transfer the same to the Judge, Family Court, Ranga Reddy District, where F.C.O.P.No.1235 of 2015 is pending. However, learned I Additional Junior Civil Judge, Tenali, Guntur District, is directed to provide necessary police protection to the petitioner.

With the above observation, the Criminal Petition is disposed of at the admission stage.

Miscellaneous petitions pending, if any, shall stand dismissed.

M.SATYANARAYANA MURTHY,J

Date:14.12.2016
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