

THE HON'BLE SRI JUSTICE RAJA ELANGO

Transfer Criminal Petition No.247 of 2015

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to transfer C.C.No.14 of 2015 on the file of Special Judge for SPE and ACB Cases, Vijayawada to any other competent Court dealing with ACB matters at Kurnool.

Heard the learned counsel for the petitioner/Accused and the learned Public Prosecutor and perused the material on record.

The main grievance of the petitioner/accused is that while cross-examining DW.5, who is a crucial witness, to establish defence of the petitioner/accused, the trial Judge has refused to record the evidence in a proper manner. It is categorically stated in para-6 of the affidavit that during chief-examination of DW.5, the petitioner/accused requested the Judge to give Exs.P.1 and P.14 from the case record to confront DW.5 on the aspect of maker of Exs.P.1 and P.14, but the learned trial Judge refused to give those two documents, as a result of which, the petitioner/accused lost opportunity of confronting DW.5 with those two documents, which should be identified by DW.5. It is also stated that when he requested the trial Judge to record at least by mentioning Exs.P.1 and P.14 in the evidence of DW.5, the trial Judge refused to refer those documents and he simply mentioned as "two reports" in the evidence of DW.5 instead of Exs.P.1 and P.14 in spite of his objection. It is further stated that the manner of recording evidence destroys the very purpose of examining DW.5 and discoloured the real meaning of the evidence of DW.5, which caused serious prejudice to his defence.

On the other hand, the learned Public Prosecutor, while denying the grounds raised by the petitioner for transferring the case, categorically stated that the manner in which it was recorded by the trial Judge would not serve any purpose since the evidence recorded by the trial Judge does not disclose the reason for examination of the said witness.

A perusal of the material on record would reveal that the allegation made against a Judicial Officer is on surmises, conjectures and irrational. Even though the allegations so made are not serious in nature, at the same time, the right of the petitioner/ accused to record evidence for the purpose for which he want to examine the witness should also be safeguarded. The petitioner/ accused further contended that if the said case is not transferred, definitely it may cause prejudice to him.

Therefore, considering the facts and circumstances of the case and taking into consideration the rival contentions of the parties, interest of justice would be better served if C.C.No.14 of 2015 pending on the file of Special Judge for SPE and ACB Cases, Vijayawada is transferred to any other competent Court having jurisdiction to deal with those cases.

Accordingly, the transfer criminal petition is allowed and C.C.No.14 of 2015 pending on the file of Special Judge for SPE and ACB Cases, Vijayawada is withdrawn from that Court and transferred the same to the Court of Special Judge for SPE & ACB-cum-III Additional District and Sessions Judge, Visakhapatnam for trial and disposal of the same in accordance with law. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

Date: 31-03-2016

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