

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr.Crl.P.No.304 of 2016

ORDER

This petition under Section 407 Cr.P.C. is filed by petitioner to withdraw C.C.No.265 of 2016 on the file of V Additional Junior Civil Judge, Guntur and transfer the same to any other competent Court at Eluru, West Godavari District, on the ground that the petitioner is facing life threat to attend the Court at Guntur in connection with the said C.C., and that she is a permanent resident of Eluru and she also filed Tr.Crl.P.No.238 of 2016 for withdrawal of DVC No.56 of 2016 from the Court of Special Mobile Court-cum-Judicial First Class Magistrate, Guntur, filed by her daughter, and transfer the same to any other competent Court at Eluru, West Godavari District.

2. As seen from the contentions raised in the present petition, the claim of petitioner is based on two grounds referred above. The first ground is that the petitioner is apprehending danger to her life to attend the Court at Guntur. But, no complaint was lodged by her either before the police or the concerned Magistrate where the matter is pending, except making such bald allegations in the petition. Thus, her apprehension is misconceived. However, if really the petitioner is facing such threat to her life, she is permitted to make a representation in writing to the Magistrate concerned, and on making such representation, the Magistrate is directed to provide necessary police protection to her whenever she attends the Court in connection with C.C.No.265 of 2016 subject to bearing necessary expenses.

3. The second ground urged by petitioner is that she is a permanent resident of Eluru, which is not sufficient to satisfy the Court for withdrawal and transfer of the case pending before the competent Court since it would affect the jurisdiction of the Court.

4. Under Section 407 Cr.P.C., this Court can exercise jurisdiction to withdraw and transfer the case whenever it appears-

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise, or

(c) that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice.

5. In the present facts of the case, no such ground is raised in the petition or urged before this Court during hearing. In those circumstances, it is difficult for this Court to exercise jurisdiction under Section 407 Cr.P.C., to withdraw C.C.No.265 of 2016 pending on the file of V Additional Junior Civil Judge, Guntur, and transfer the same to any other competent Court at Eluru, West Godavari District, since the grounds raised by petitioner in this petition are not valid. Mere pendency of Transfer Criminal Petition for withdrawal of DVC pending on the file of Special Mobile Court, Guntur, is not a ground for withdrawal and transfer of the present case. Therefore, I find no grounds to allow this petition. Consequently, the Transfer Criminal Petition is liable to be dismissed.

6. In the result, the Transfer Criminal Petition is dismissed at the stage of admission. Miscellaneous petitions, if any, pending in this Transfer Criminal Petition shall stand dismissed.

M. SATYANARAYANA MURTHY, J

30th November, 2016

sj

