

THE HON'BLE SRI JUSTICE RAJA ELANGO

Tr. Criminal Petition No.60 of 2016

ORDER:

This Transfer Criminal Petition is filed under Section 407 Cr.P.C. seeking to withdraw C.C.No.233 of 2013 on the file of XVI Special Magistrate's Court, Erramanzil and to transfer the same to any other Special Magistrate's Court in the same complex.

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

The main grievance of the petitioner is that the Presiding Officer before whom C.C.No.233 of 2013 is pending always showed ire, displeasure and some sort of reproach, which is not congenial for fair trial. It is further claimed that the Presiding Officer was stated he would send the petitioner to jail many a times.

A perusal of the material on record would reveal that the grounds asserted for seeking transfer of the case to some other court are untenable and not justifiable for transferring the case. Earlier, The petitioner filed Tr.Crl.M.P.No.1196 of 2015 before the Metropolitan Sessions Judge, Hyderabad on the same set of facts, seeking transfer of the said case, but the learned Sessions Judge dismissed the same, holding that the grounds raised by the petitioner are not sustainable in law and are totally a miscarriage of justice. The petitioner did not assign any justifiable reason for transfer of the case from the Court where it is pending. As rightly held by the learned Sessions Judge, the comments made against the Court is due to the default of the petitioner/accused in being present before the Court and the same appeared to be a wrong

perspective. Having convinced with the findings given by the learned Sessions Judge, this Court is of the view that there are no valid and justifiable grounds for transfer of the case and it does not warrant the invocation of the jurisdiction of this Court under Section 407 Cr.P.C., and hence, the transfer criminal petition is liable to be dismissed. However, it is left open to the learned Magistrate that if he is of the view that the case can be transferred to some other Court, then he can proceed with the same in accordance with law.

Accordingly, the transfer Criminal Petition is dismissed. Consequently, miscellaneous petitions, if any, pending, shall stand closed.

RAJA ELANGO, J

Date: 26-02-2016

–
Ksn