

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

TRANSFER CRIMINAL PETITION No.312 OF 2016

ORDER:

This transfer criminal petition, under Section 407 (6) of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to withdraw C.C. No.1133 of 2014 pending on the file of Junior Civil Judge, Vurryur, Krishna District, and transfer the same to any Court at Visakhapatnam.

The basis for filing this petition is that the petitioner is a Bank employee at Kancharapalem, Visakhapatnam, and the alleged major part of the incident took place within the territorial limits of Visakhapatnam courts, but C.C.No.1133 of 2014 filed against the petitioner is pending before the Judicial Magistrate of First Class, Vuyyuru, Krishna District, and it is difficult for him to attend the Court at Vuyyuru, Krishna District, while working as an employee at Visakhapatnam,

Merely because he is residing at Visakhapatnam, the C.C. No.1133 of 2014 pending before the Judicial Magistrate of First Class, Vuyyuru, Krishna District, it cannot be withdrawn and transferred to any Court at Visakhapatnam, and it is not at all a ground to exercise jurisdiction under Section 407 of Cr.P.C. to withdraw and transfer the matter to any other Court.

According to Section 407 of Cr.P.C., Whenever if the High Court finds that

- (a) 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,
the court may order

- (i) that any offence be inquired into or tried by any Court not qualified under sections 177 to 185 (both inclusive), but in other respects competent to inquire into or try such offence;
- (ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;
- (iii) that any particular case be committed for trial to a Court of Session; or
- (iv) that any particular case or appeal be transferred to and tried before itself.

Apart from that C.C.No.1133 of 2014 was registered in the year 2014, for the last two years he is appearing before the court at Vuyyuru and now it is difficult for him to appear before the Court at Vuyyuru is also not a ground to withdraw and transfer the mater to any Court at Visakhapatnam. If such ground is accepted, when an employee is an accused and transferable from one place to other, some times from one state to other, but pending proceedings will not be transferred from place to place along with the employee. Transfer is a change of jurisdiction and the court has to consider the inconvenience of complainant also. Considering the inconvenience being caused, in case of transfer, to the complainant, I am unable to withdraw and

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transfer to any other Court. Therefore, I find no ground to exercise jurisdiction under Section 407 of Cr.P.C. and consequently, the criminal petition is liable to be dismissed.

In the result, the criminal petition is dismissed at the stage of admission, however, the Judicial Magistrate of First Class, Vuyyuru, is requested to decide C.C. No.1133 of 2014 as expeditiously as possible without giving undue preference to this case.

Miscellaneous petitions, if any, pending in this transfer criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 08.12.2016
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