

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Tr.CrI.P.No.104 of 2013

ORDER:

This transfer Criminal Petition is filed by the *defacto* complainant in S.C.No.634 of 2012 on the file of Principal Sessions Judge, Karimnagar praying to withdraw C.C.No.122 of 2011 on the file of Judicial Magistrate of First Class, Vemulawada and transfer the same to the Court of Principal Sessions Judge, Karimnagar to be tried along with S.C.No.634 of 2012.

2) The petitioner's case is that the Bommela Rayanarsu (deceased) was her husband and on 01.03.2011 at 14:30 hours when he was sitting in front of his house, the Bommela Janaki (R.2) keeping in view the previous enmity, beat him with a pestle on head with an intention to kill him and basing on the complaint, the police have registered a case in Crime No.78 of 2011 for the offence under Sec.307 IPC and filed charge sheet and later the Judicial Magistrate of First Class, Vemulavada took cognizance of the offence under Sec.324 IPC and registered the case as C.C.No.122 of 2011 which is pending for trial before the said Court.

3) The further case of the petitioner is that in the month of August, 2011, the 2nd respondent killed her husband keeping in view of the land disputes and in that context the petitioner filed complaint before the police Vemulawada

against the R.2 and the police after investigation registered a case in Crime No.271 of 2011 for the offence under Sec.302 IPC and laid charge sheet and that case was numbered as S.C.No.634 of 2012 and pending on the file of the Principal Sessions Judge, Karimnagar and coming up for trial.

4) The further case of petitioner is that in both the cases the witnesses are family members of the deceased and as such both cases are interlinked as they would show the motive of the R.2 to kill him. Earlier she made an attempt on him on 01.03.2011 wherein she failed and subsequently she killed the husband of the petitioner. Therefore, to avoid conflicting judgments and to have consistent view, the petitioner says, she filed Tr.Crl.M.P.No.114 of 2013 under Sec.408 Cr.P.C before the Principal Sessions Judge, Karimnagar for transfer of C.C.No.122 of 2011 from the file of Judicial Magistrate of First Class, Vemulawada to the Court of Principal Sessions Judge, Karimnagar to be tried along with S.C.No.634 of 2012 but the said petition was erroneously dismissed by the Principal Sessions Judge, Karimnagar in his order dt: 28.03.2013.

Hence the instant petition by the present petitioner seeking to transfer C.C.No.122 of 2011 from the Court of Judicial Magistrate of First Class, Vemulawada to the Court of Principal Sessions Judge, Karimnagar to be tried along with S.C.No.634 of 2012.

5) Heard both sides.

6) The point for determination in this petition is:

“Whether there are merits in this petition to allow?”

7) **POINT**: A perusal of the impugned order dt:28.03.2013 in Tr.Crl.M.P.No.114 of 2013 would show that learned Principal Sessions Judge, Karimnagar observed that though in both the cases victim and accused are one and the same, the incidents in both the cases are distinct in nature committed at different points of time and they are not connected to each other. He further observed that each case has its own set of facts and they are not the outcome of a single incident and therefore, there is no likelihood of conflicting judgments being emerged in the two cases. On the aforesaid observations, the Principal Sessions Judge dismissed the transfer petition.

8) On a careful perusal of the facts, I find no irregularity or illegality in the aforesaid order. As rightly pointed out by the learned Judge, except the commonality of the victim and the accused in both the cases, the incidents and cause of incident and facts relating to the two cases are quite different and distinct. Therefore, there can be no apprehension that conflicting judgments would arise in the two cases. There are no other compelling circumstances warranting the transfer of C.C.No.122 of 2011 from the Court of Judicial Magistrate of First Class, Vemulawada to the Court of

Principal Sessions Judge, Karimnagar. As such, I find no merits in the Transfer Criminal Petition.

9) Accordingly, the Transfer Criminal Petition is dismissed.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 30.03.2016

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Copy to:

- 1) The Principal Sessions Judge, Karimnagar.
- 2) The Judicial Magistrate of First Class, Vemulawada, Karimnagar District.