

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Transfer Criminal Petition No.113 of 2013

Order:

_____ In this petition filed under Section 407 Cr.P.C., the petitioners/accused Nos.1 to 4, 6 to 8, 12 to 14, 16, 19, 21 to 28, 33 to 40 pray to set aside the order dated 08.10.2012 in Tr.Cr.M.P.No.630 of 2012 passed by the learned Sessions Judge, Vizianagaram transferring the D.D.R.No.3379/2012 dated 16.08.2012 on the file of Judicial Magistrate of First Class, Cheepurupalli to the Judicial Magistrate of First Class (Special Mobile) Court, Vizianagaram for disposal.

2) _____ In an unnumbered registered private complaint in D.D.R.No.3379 of 2012 filed by the first respondent/complainant before Judicial Magistrate of First Class Cheepurupalli, the petitioners and some others are arrayed as accused for the offences under Sections 448, 451, 452, 379, 382, 392, 427 and 506 r/w 109 IPC.

3a) _____ The complaint allegations briefly are that the complainant is the owner of schedule mentioned property situated in Cheepurupalli which consists of Saw Mill and residential house and doing timber business since last 25 years in the said premises by obtaining license from the Forest Department. It is alleged that A27 the erstwhile Zilla Parishad Chairman, warned A1 to A26 to remove their buddies (shops) lying adjacent to Western wall of the schedule premises of the complainant on the ground that Government wanted to extend the width of the road by 40 feet on either side. A27 allegedly advised A1 to A26 that they can remove their buddies and shift to the schedule premises of the complainant by removing the wall illegally to an extent of 10 feet. When A1 to A26 tried to remove the said wall the complainant filed O.S.No.75 of 2012 on the file of Junior Civil Judge, Cheepurupalli and obtained *status quo* order.

b) _____ The further case of the complainant is that while so on 08.07.2012, A27 and A28 followed by their supporters and A29 to A32 came to the house of the complainant and warned to vacate the schedule premises by the morning of 09.07.2012 failing which he would come to the schedule premises with the assistance of A1 to A26 and remove the wall and the house of the complainant and buddies of A1 to A26. Again on 09.07.2012 all the accused came there and in spite of protest made by the complainant they formed into a body and demolished the Western wall of his compound by violating the orders of civil Court and committed theft of movables like 30 Tolas of gold, 1 KG of silver articles, cash worth Rs.5 lakhs and other household articles

Hence the complaint.

c) _____ When the matter is pending, the complainant filed Tr.Cr.M.P.No.630 of 2012 before the Sessions Judge, Vizianagaram seeking transfer of criminal case from Cheepurupalli to

Vizianagaram on the submission that the complainant initially engaged Sri Ch.Venugopala Rao, Advocate to conduct the criminal case on his behalf and later engaged senior counsel Sri V.Prasada Rao, Advocate, Bobbili and when the modesty of wife of the complainant was outraged by 10 persons out of 40 accused, Sri V.Prasad Rao, Advocate made a complaint before the Judicial Magistrate of First Class, Cheepurupalli which was forwarded to SHO, Cheepurupalli PS and accused were called for interrogation and thereafter the accused grew wild and went to the house of Sri Ch.Venugopala Rao and trespassed into the house and abused him in vulgar language and demanded to withdraw the Vakalat and they also directed him to inform Sri V.Prasada Rao, Advocate to give up his Vakalat also failing which they threatened to attack him and manhandle him. Accordingly, Ch.Venugopala Rao given up his Vakalat in all the matters in which he was appearing for the complainant and he informed Sri V.Prasada Rao not to come to Cheepurupalli on 27.09.2012 on which date the case was posted. The complainant thus submitted that it would be difficult for him to prosecute his case peacefully in Cheepurupalli and sought for transfer of the case to any other Court in the District. During hearing of the petition before Sessions Judge, Vizianagaram it was submitted on behalf of complainant that A27 was having mass-power and revenue and police people were also supporting him and there was no safety for the complainant and his counsels. Considering all these facts, learned Sessions Judge passed the order transferring D.D.R.No.3379/2012 from the file of Judicial Magistrate of First Class, Cheepurupalli to Judicial Magistrate of First Class (Special Mobile) Court, Vizianagaram.

Hence the instant petition by the petitioners/accused.

4) Heard.

5) The point for determination is:

"Whether there are merits in this petition to allow?"

6) **POINT:** A perusal of the impugned order shows that learned Sessions Judge having regard to the threat offered to the complainant and his counsels by the accused, transferred the case from Cheepurupalli to Vizianagaram and I see no illegality or irregularity in the said order. The gravity of the situation can be perceived from the fact that even advocates of the complainant have no security due to the threat offered by the petitioners/accused. In those circumstances, learned Sessions Judge was right in transferring the matter from Cheepurupalli to Vizianagaram as it was informed the transferee court is not a far off place from Cheepurupalli.

7) I see no merits in the petition and accordingly this Transfer Criminal Petition is dismissed.

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

U.DURGA PRASAD RAO, J

Date: 04-04-2016

Murthy