

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER CRIMINAL PETITION No.320 OF 2016

ORDER.

This Transfer Criminal Petition is filed under Section 407 of Cr.P.C. to withdraw C.C.No.476 of 2013 pending on the file of Judicial Magistrate of First Class, Husnabad, Karimnagar District and transfer the same to the court of XVII Additional Chief Metropolitan Magistrate, Hyderabad.

The only ground urged before this court is that the complainant/respondent made an attack on the petitioner when he attended the court in connection the above case on 2-12-2016 and apprehending danger in the hands of respondent, petitioner lodged a complaint dated on the same day with the Station House Officer, Husnabad, Police Station, Karimnagar District informing about the incident and on the strength of the same, police registered a case in crime No.354 of 2016 for the offences punishable under Sections 341, 290, 323 and 504 read with 34 of I.P.C.

During hearing, learned counsel for the petitioner reiterated the said contention and requested to withdraw and transfer the matter to any other court as there is every danger to his life, whenever, he is required to appear before the court in connection with the above case and by exercising powers under Section 407 Cr.P.C., the court can withdraw the case and transfer to any court to have fair trial but the incident reported to the police is attack against him, in such a case, the necessary protection is to be provided to the petitioner to attend the court on the dates of adjournments.

A similar question came up before the Honourable Supreme Court in a judgment reported in *RANJIT SINGH AND ANOTHER VS.*

POPAT RAMBHAJI SONAVANE AND OTHERS (¹), in which the apex court held as follows:

“Where the petitioner complainant (a legal practitioner having a house at Pune) sought transfer of a sessions case under Section 395, 341, 504 and 506 IPC against certain persons (as committed by Magistrate on private complaint) from Pune to Indore on solitary ground that if transfer was not granted, his safety would be in danger, that was too nebulous a ground from transferring the case in which all four witnesses were from Pune. When the State counsel undertook to extend all possible facilities as directed by the Supreme Court to ensure safety and security of the petitioner, the Supreme Court rejected the transfer petition after making necessary directions for safety and security of petitioner for the period required for recording of petitioner’s evidence.”

By applying the principle laid down in the above decision, threat is not a ground and at best, petitioner may request the police to provide necessary protection.

Therefore, I deem it appropriate to issue a direction to the learned Judicial Magistrate of First Class, Husnabad, Karimnagar District to provide police protection to the petitioner whenever he attends court in connection with the above C.C. on receipt of written requisition from the petitioner subject to bearing necessary expenses, if any. It is suffice to meet the ends of justice instead of withdrawing and transferring the matter to any other court.

In the result, this Transfer Criminal Petition is disposed of with a direction to the learned Judicial Magistrate of First Class, Husnabad, Karimnagar District to provide police protection to the petitioner whenever he attends the court at Husnabad, Karimnagar District, in

¹ AIR 1983 SC 292

connection with the above C.C. on receipt of written requisition from the petitioner subject to bearing necessary expenses, if any.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 19-12-2016.

Note:

Issue C.C today.

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Dvs.



HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 19-12-2016.

Dvs