

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER CRIMINAL PETITION No.272 OF 2016

ORDER:

This Transfer Criminal Petition is filed under Section 407 of Cr.P.C. to withdraw C.C.No.404 of 2009 pending on the file of Additional Judicial Magistrate of First Class, Kavali, SPSR Nellore District and transfer the same to Additional Junior Civil Judge-cum-Additional Judicial First Class Magistrate at Giddalur where M.C.No.11 of 2013 is pending on the ground that petitioner being a lady aged 31 years is unable to attend the court while looking after her old aged parents but the age of L.Ws.2 and 3 Dontha Lakshmi and Dontha Kanaka Rao respectively were of 46 and 52 years who are parents of the petitioner but they are not old enough to take care of their health by the petitioner alone while staying with them at the residence even attending to the court.

The allegation that the parents of the petitioner are old aged is not supported by any material and on the other hand, age of L.Ws.2 and 3 is mentioned in the charge sheet appears to be 46 and 52 years respectively.

It is also contended that mother of the petitioner is suffering from Asthma and father of petitioner is suffering from Cardiac problem and they produced certificates issued by the Doctors.

All these facts would go to show that mother is suffering from Asthma and father is suffering from Cardiac problem but nothing prevents to attend the court. Therefore, on that ground,

C.C.No.404 of 2009 pending on the file of Additional Judicial Magistrate of First Class, Kavali, SPSR Nellore District, cannot be withdrawn and transfer the same to the court of Additional Junior Civil Judge-cum-Additional Judicial First Class Magistrate at Giddalur.

The learned counsel relied on two judgments of this court reported in *SYED KHAJA MOHIUDDIN AND OTHERS v. STATE OF A.P.* ⁽¹⁾ and *U.KARUNA v. ADAPA SUBRAHMANYAM AND ANOTHER* ⁽²⁾ but in these two matters, no law was declared by this court in both the judgments.

Therefore, the ground urged in the petition would not form basis to withdraw C.C.No.404 of 2009 pending on the file of Additional Judicial Magistrate of First Class, Kavali, SPSR Nellore District and transfer the same to transfer the same to Additional Junior Civil Judge-cum-Additional Judicial First Class Magistrate at Giddalur.

At this stage, counsel for the petitioner requested to issue a direction to the Additional Judicial Magistrate of First Class, Kavali, SPSR, Nellore District to decide the matter fixing time.

In view of the specific request made by petitioner, C.C.No.404 of 2009 pending on the file of Additional Judicial Magistrate of First Class, Kavali, SPSR Nellore District is directed to decide the

¹ 2005 (2) ALD (CrI.) 740

² 2006 (2) A.L.T.(CrI.) 509 (A.P.)

C.C.No.404 of 2009 as expeditiously as possible but not latter than three months but without giving undue preference to this matter.

With the above observation, this Transfer Criminal Petition is dismissed.

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

JUSTICE M.SATYANARAYANA MURTHY

Dated 17-11-2016.

Dvs.



HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 17-11-2016

Dvs