

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2017

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Cr1.O.P.No.25007 of 2017

and

Cr1.M.P.No.14425 of 2017

N.Raghavulu Naidu

... Petitioner

Vs.

The State

Rep.by The Inspector of Police,
Central Bureau of Investigation,
ACB, Chennai.

... Respondent

Prayer: Criminal Original Petition filed under Section 407 Cr.P.C. praying to transfer the C.C.No.20 of 2017 pending on the file of the XIV Additional Court for CBI Cases, Chennai to any other Court of competent jurisdiction.

For Petitioner : Mr.V.Prakash
Senior Counsel

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor
(CBI Cases)
Assisted by Mr.R.Sudev Kumar
Senior Public Prosecutor (CBI Cases)

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O R D E R

This petition is filed to transfer C.C.No.20 of 2017 pending on the file of the XIV Additional Court for CBI to any other Court of competent jurisdiction.

2. The petitioner is the accused in the above case and the contention of the petitioner is that the trial Court had admitted certain documents to be marked through P.W.1 who is neither a party to the documents or a person who has knowledge about the documents. Despite his objection, the learned Judge admitted those documents and also when the Court cross examined P.W.1, certain questions put to the witness were not permitted.

Therefore, as an accused, he apprehends that the Court is prejudiced and biased.

3. The learned Special Public Prosecutor submitted that while recording the deposition of P.W.1 Court has admitted documents, which the witness has produced to CBI during the investigation. Since those documents were recovered from the custody of the witness, he has spoken about documents and further the objections for marking certain documents were raised by the defence counsel and the same has been duly recorded by the Court to be considered at the time of appreciating evidence. Since the documents were marked, subject to objections, there is no need to apprehend that Presiding officer is prejudiced against the accused person.

4. The learned Special Public Prosecutor has also drawn the attention of this Court to the deposition recorded by the trial Court in respect of P.W.1 Dr.Gopalsamy. On perusing the deposition, this Court finds that during the cross examination, certain questions posed to the witness by the defence counsel were not permitted by the learned Judge on the ground that, those questions were irrelevant. May be in his wisdom, those question might be irrelevant but having declined the permission to put those questions to the prosecution witness, the accused has entertained doubt.

5. The learned Special Public Prosecutor who represents the respondent in the trial Court would submit that there was lengthy cross examination of the witness centring around his educational qualification which has prompted the Judge to decline the defence counsel to put questions which were not relevant.

6. Be that as it may. Since the apprehension expressed by the petitioner cannot be carried on for a long time in the interest of justice, the petition for transfer is allowed.

7. Semblance of bias is sufficient for the person concerned to apprehend adverse treatment. In this case, though, there may not be any bias attributable to the Presiding officer, but to avoid inconvenience to the Learned Judge as well the accused, the case is withdrawn from XIV Additional Court for CBI and to transferred to XIII Sessions Court for CBI cases.

8. The XIII Sessions Judge for CBI cases is hereby directed to take up the matter and dispose of the same expeditiously.

9. According, the CrI.O.P., stands allowed.
Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Inspector of Police,
Central Bureau of Investigation,
ACB, Chennai.
- 2.The XIII Sessions Judge, for CBI Cases
Chennai
3. The Public Prosecutor,
High Court, Madras

+1 cc to M/s.K.Sudalaikannu Advocate sr 83447

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