HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.CRL.P.No.290 OF 2016

ORDER:

This transfer criminal petition is filed under Section 407 Cr.P.C with a request to withdraw C.C.No.392 of 2015 pending on the file of Judicial Magistrate of First Class, Peddapalli, Karimnagar District and transfer the same to XVI Special Magistrate, Erramanzil, Hyderabad to try along with C.C.No.325 of 2015, pending on its file.

2. The 1st respondent filed two private complaints for the offence punishable under Section 138 of the Negotiable Instruments Act (for short 'the Act') in two different Courts i.e. one on the file of Judicial Magistrate of First Class, Peddapalli and another before XV Metropolitan Magistrate, Hyderabad, which was transferred subsequently, to the Special Magistrate, Erramanzil, Hyderabad. The parties in both the calendar cases are one and the same and that they are residents of Hyderabad in different areas.

3. The only grievance of the petitioner before this Court is that if the matter is allowed to be tried by the Judicial Magistrate of First Class, Peddapalli, there is every possibility of conflicting judgment. Therefore, to avoid conflicting judgment requested to withdraw C.C.No.392 of 2015 from Judicial Magistrate of First Class, Peddapalli and transfer to Special Magistrate, Erramanzil, Hyderabad for being tried

along with C.C.No.325 of 2015 and also for convenience of parties.

Notice served on the 1st respondent and proof of service is also filed, but none appeared.

As seen from the material on record, the trial in both Calendar Cases is not yet commenced. The parties are one and the same and the transaction is also almost one and the same i.e. issue of cheques towards refund of advance sale consideration under the agreement, but the date is varying. Apart from that the petitioner is resident of Guttalabegumpet, Madapur and the 1st respondent is also resident of Nagarjuna Residency, Rajeevnagar, Yousufguda, Hyderabad. If C.C.No.392 of 2015 pending on the file of Judicial Magistrate of First Class, Peddapalli is tried and disposed of along with C.C.No.325 of 2015, pending on the file of XVI Special Magistrate, Erramanzil, Hyderabad, the inconvenience of the parties to underte journey from Hyderabad to Peddapally, Karimnagar District, can be avoided. Therefore, keeping in view the inconvenience being caused to the parties and to avoid conflicting judgment between the same parties, I find that it is a fit case to withdraw C.C.No.392 of 2015 pending on the file of Judicial Magistrate of First Class, Peddapalli, Karimnagar District and transfer the same to XVI Special Magistrate, Erramanzil, Hyderabad to try and dispose of in accordance with law, leaving it open to the Magistrate to try either together or simultaneously, subject to his discretion.

In the result, the Transfer Criminal Petition is allowed, withdrawing C.C.No.392 of 2015 pending on the file of Judicial Magistrate of First Class, Peddapalli, Karimnagar District and transferred to XVI Special Magistrate, Erramanzil, Hyderabad to try and dispose of in accordance with law.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

22.12.2017
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