

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Criminal Petition No.54 of 2017

ORDER:

This Transfer Criminal Petition, under Section 407(1) of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused, requesting to withdraw C.C.No.1591 of 2016 from the Court of the Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur, and transfer the same to the Court of IV Additional Chief Metropolitan Magistrate, Visakhapatnam, for trial and disposal in accordance with law.

2. Heard the learned counsel for the petitioner/accused, learned counsel for the 2nd respondent/de-facto complainant, learned Public Prosecutor (Telangana) appearing for the 1st respondent-State and perused the record.

3. The learned counsel for the petitioner/accused would submit that he is falsely prosecuted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, in C.C.No.1591 of 2016 before the Court of the Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur. All the witnesses belong to Visakhapatnam. A notice was issued at Visakhapatnam. Bank transaction was also made at Visakhapatnam. The witnesses who are likely to be examined on behalf of the petitioner/accused as defence witnesses also belong to Visakhapatnam. Further, the 2nd respondent/de-facto complainant originally belongs to Visakhapatnam. The Court at

Visakhapatnam is convenient to both the parties for disposal of the said Calendar Case and ultimately prayed to withdraw C.C.No.1591 of 2016 from the Court of the Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur, and transfer the same to the Court of IV Additional Chief Metropolitan Magistrate, Visakhapatnam. It is also contended that some civil disputes are also pending at Visakhapatnam between the parties to this litigation.

4. The learned counsel for the 2nd respondent/de-facto complainant would submit that the 2nd respondent, along with her children, are living at Bachupally, Hyderabad, for the last four years. Hence, the Court at Miyapur, Hyderabad, is convenient to her to attend and seek disposal of the Calendar Case.

5. The point for determination is whether the request made by the petitioner/accused can be acceded to?

6. As per the submissions made before this Court, the 2nd respondent, who is the complainant in the Calendar Case, has been residing at Bachupally, Hyderabad, for the last four years. The 2nd respondent is aged 71 years. It is also brought to the notice of this Court that the 2nd respondent is having one unmarried daughter and other family members whom she has to take care and all of them are residing at Bachupally, Hyderabad. It is not in dispute that the Metropolitan Magistrate's Court, Cyberabad, Kukatpally at Miyapur, has no jurisdiction to entertain the subject Calendar Case as per the relevant

provisions. It is for the 2nd respondent to choose the Court and file a case of this nature, though it is inconvenient to the petitioner herein. The place of transaction, pendency of the civil disputes, residence of witnesses, are not the considerations. In view of the age and the residence of the 2nd respondent/de-facto complainant, it is not appropriate to withdraw C.C.No.1591 of 2016 from the Court of the Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur, and transfer the same to the Court of IV Additional Chief Metropolitan Magistrate, Visakhapatnam. The Transfer Criminal Petition is devoid of merit and is liable to be dismissed.

7. In the result, the Transfer Criminal Petition is dismissed.

Pending miscellaneous petitions, if any, in this Transfer Criminal Petition, shall stand closed.



Dr. SHAMEEM AKTHER, J

25th October, 2017
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