

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE
OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

TRANSFER C.M.P.No. 79 OF 2017

Between:

Pothuri Tulasi Das ... Petitioner

AND

Pothuri Hari Prasad and another ... Respondents

Date of Order Pronounced : 28-06-2017

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

1. Whether Reporters of Local newspapers
May be allowed to see the order? Yes/No
2. Whether the copy of order may
be marked to Law Reporters/Journals? Yes/No
3. Whether his Lordship wishes to see the
Fair copy of the order? Yes/No

M.SATYANARAYANA MURTHY, J.

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY*+TRANSFER C.M.P.No. 79 OF 2017****%Dated: 28-06-2017**

#Pothuri Tulasi Das,

S/o late Venkata Koteswara Rao,

64 years, R/o H.No. 26-5, Ground floor,

R.V.S.C.V.S. High School Road, Chilakaluripet,

Guntur District

... Petitioner

VERSUS

\$Pothuri Hari Prasad,

S/o late Venkata Koteswara Rao,

67 years, Business,

R/o D.No. 26-5, R.V.S.C.V.S. High School Road,

Chilakaluripet, Guntur District, and another

... Respondents

!Counsel for the petitioner : Party-in-person**^Counsel for the respondents : Sri K.Murali Krishna****<GIST :****>HEAD NOTE :****?Cases referred :**

1. AIR 2008 SC 1333
2. S.L.P. (Criminal) Nos. 9374-9375 of 2015
3. AIR 1966 SC 1418
4. (2000) 6 SCC 204
5. 1994 Supp. (1) SCC 540
6. AIR 1983 SC 1151
7. AIR 1980 SC 946
8. AIR 1981 SC 755
9. (1986) ILR 2 P & H 5
10. ILR (1959) 1 AP 1282
11. AIR 1974 SC 710
12. 2011 (2) ALT 405
13. MANU/RH/0132/1980
14. (2007) 15 SCC 307
15. AIR 2017 SC 1
16. (2010) 8 SCC 1
17. (2012) 1 SCC 455
18. AIR 2001 AP 465

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**TRANSFER C.M.P.No. 79 OF 2017****ORDER:**

This petition under Section 24 of the Code of Civil Procedure (for short, 'C.P.C.') is filed by one Pothuri Tulasi Das (hereinafter referred to as 'the party-in-person/petitioner') to withdraw O.S.No. 62 of 2012 pending on the file of the Court of XIII Additional District Judge, Narsaraopet (for short, 'the Court below'), and transfer the same to City Civil Court, Hyderabad.

Though this Court is under obligation to marshal the facts but in view of the serious allegations made against the Presiding Officer and the entire judiciary of the State of Andhra Pradesh, it is apposite to extract the allegations made in the affidavit filed along with the petition for better appreciation of facts which are as under:

"I submit that the 1st respondent herein is my brother and the 2nd respondent herein is the wife of the 1st respondent. There is some property disputes between me and my brother and I filed suit O.S.No. 50 of 1985 on the file of the Addl. Senior Civil Judge, Narsaraopet for partition and the said suit was partly allowed allotting 1/3rd share to me. In fact, I am entitled for ½ share, as such I preferred appeal A.S.No. 2295 of 1998 and the respondents herein filed A.S.No. 1644 of 1998 before this Hon'ble Court and this Hon'ble Court dismissed A.S.No. 2295 of 1998 filed by me and allowed A.S.No. 2295 of 1998 filed by the respondents by common judgment dated 06-11-2008. Against the judgment passed in A.S.Nos. 1644 of 1998 and A.S.No. 2295 of 1998, I have carried the matter to the Hon'ble Supreme Court of India by filing two SLPs and both the SLPs 12661-12662 were dismissed.

*I submit that later the respondents herein filed suit O.S.No. 62 of 2012 on the file of the XIII Addl. District Judge, Narsaraopet seeking a direction to me to vacate and deliver the possession of the ground floor and to pay mesne profits and for other reliefs. I submit that **"the respondents herein are influential persons and they have contacts with the***

political leaders and also the presiding officer of the XIII Addl. District Judge Court, Narsaraopet." I have filed a private complaint before the Court of learned Principal Sessions Judge, Guntur, against Sri Narendra Modi, Nara Chandrababu Naidu and various political leaders including the presiding officer of XIII Addl. District Court, Narsaraopet and there are 63 accused persons, but the said complaint was returned vide C.F.R.No. 2853/2016 with a liberty to me to present the complaint before appropriate Court. Accordingly the complaint was filed before the Court of learned Junior Civil Judge, Chilakaluripet and the said complaint was also returned vide Sr.No.5395 of 2016 dated 16-12-2016.

I submit that now the suit O.S.No. 62 of 2012 is pending before the learned XIII Additional District Judge, Narsaraopet and the Presiding Officer is one of the alleged accused in the private complaint filed by me. Apart from the Presiding Officer, various prominent political leaders are also accused in the private complaint. **"Further there is threat to my life from the respondents herein already"**, the respondents in collusion with the officials of the Transco have disconnected the power supply to my premises and damaged the bath room and lavatory and though I have given complaint before the concerned police, but police are not taking any action yielding to the pressure and influence from the respondents. **"I submit if the proceedings in O.S.No. 62 of 2012 are allowed to continue in the Court of learned XIII Addl. District Judge, Narsaraopet, I am sure that justice will not be done either in the Court of learned XIII Addl. District Judge, Narsaraopet or in the entire Andhra Pradesh since the presiding officers and the political leaders are hand-in-glove with the respondents-accused"**, as such it is just and necessary to transfer suit O.S.No. 62 of 2012 to the City Civil Court, Hyderabad, having competent jurisdiction to try the same."

This Court ordered notice to the respondents. Sri K.Murali Krishna, learned counsel, entered appearance for the respondents and opposed the petition during hearing.

In view of the serious allegations made against the Presiding Officer, this Court called for remarks of the officer and in turn, the Principal District Judge, Guntur, submitted the remarks to this Court received from the officer concerned

i.e. XIII Additional District Judge, Narsaraopet, annexing certain documents, they are complaint filed before the District Consumer Forum, Guntur; Photostat copy of order dated 17-07-2014 in I.A.S.R.No. 819 of 2014 in C.C.No. 98 of 2012 on the file of the District Consumer Forum, Guntur, and memo filed on the file of the Court of Principal Junior Civil Judge, Chilakaluripet, in O.S.No. 53 of 2014, while contending that he advised the party-in-person to have the services of an advocate through Mandal Legal Services Authority to defend his case but he neither engaged a counsel of his choice nor accepted the advice of the Court; on the other hand, he made adverse comments against the advocates at Narsaraopet; that he has no faith over the advocates at Narsaraopet and that he is causing troubles to the Court by filing memos without reasonable ground, thereby stalling the proceedings in the suit. In those memos, the party-in-person made allegations against the advocates at Narsaraopet, Chilakaluripet and Guntur and some of the judicial officers. He is also in the habit of filing civil and criminal cases against judges, politicians and bureaucrats. He has gone to the extent of claiming that he filed a criminal case against the Prime Minister of the Country, Chief Minister of the State, **Opposition** Leader and some ministers and laying foundation by filing a private complaint before the District Judge, he is seeking transfer of the suit. The Presiding Officer, therefore, requested this Court to withdraw O.S.Nos. 62 of 2012 and 59 of 2015 and transfer the same to any other Court and also requested this Court to take stringent action against the party-in-person for making such baseless and unscrupulous allegations against the entire judiciary.

During hearing, the party-in-person, claiming to be the founder of a political party registered with Andhra Pradesh State Election Commission, having been defeated once in the elections for Lok Sabha and again in the elections for assembly of the State of Andhra Pradesh, has highlighted his actions by filing

various proceedings and drawn the attention of this Court to the order passed by the District Judge, Guntur, in the private complaint filed against 63 accused including the present Prime Minister of India, the Present Chief Minister of the State of Andhra Pradesh, the Speaker, Elections Commissioners of both the States and the Center, Director General of Police, other ministers and political leaders including both the Chairmen of the Bar Councils of Andhra Pradesh and Telangana and more than five judicial officers working in different capacities without leaving even a bench clerk of the Court who is dealing with the matters, the advocates practicing at Narsaraopet, Chilakaluripet and Guntur, and one sitting Judge and retired Judges of this Court in C.F.R.No. 2853 of 2016 dated 18-11-2016 while contending that he has no faith on the entire judiciary in the State of Andhra Pradesh, as they are having affiliations with political leaders in the State and that he would not get fair justice in the Courts if O.S.No. 62 of 2012 is tried and decided by the present Presiding Officer of the Court or by any officers in the State of Andhra Pradesh and requested this Court to withdraw and transfer the suit only to City Civil Court at Hyderabad.

The petitioner is residing in H.No. 26-5, Ground Floor, R.V.S.C.V.S. High School Road, Chilakaluripet, as per the cause title of the petition and the schedule property *i.e.* house bearing No. 26/8 (old), 26-5 (new) in an extent of Ac. 0.12 cents and structures thereon is situated within the limits of Chilakaluripet Municipality and Sub-Registry and within the territorial jurisdiction of XIII Additional District Judge, Narsaraopet. Similarly, the respondents are also residents of Chilakaluripet and also residing in upper floor of the same building.

The few facts relevant to decide the present controversy are that there were disputes between the petitioner and the respondents with regard to immovable property. The petitioner filed O.S.No. 50 of 1985 on the file of the Court of Additional Senior Civil Judge, Narsaraopet, for partition and other

consequential reliefs claiming half share in the schedule property annexed to the above suit and the suit was decreed in part declaring that the petitioner is entitled to 1/3rd share. Aggrieved by the decree and judgment in O.S.No. 50 of 1985, the petitioner preferred appeal A.S.No. 2295 of 1998 and the respondents preferred A.S.No. 1644 of 1998 before this Court. Upon hearing argument of both counsel, this Court dismissed A.S.No. 2295 of 1998 filed by the petitioner and allowed the appeal A.S.No. 1644 of 1998 filed by the respondents by common judgment dated 06-11-2008. The petitioner thereupon filed special leave petitions before the Apex Court and the Apex Court dismissed both the petitions confirming the common judgment of this Court dated 06-11-2008 in A.S.Nos. 1644 and 2295 of 1998. Thus, the petitioner is a seasoned litigant and gained lot of experience in dragging the matters up to Supreme Court. Having lost his claim in the property, the petitioner made an unethical attempt to denounce the prestige of the entire judiciary in the State of Andhra Pradesh by making brazen allegations that respondent No. 1 is influential person having contacts with political persons and with the Presiding Officer of the XIII Additional District Judge, Narsaraopet, and invented a ground by filing a private complaint against the Presiding Officer of the Court and others referred to above in C.F.R.No. 2853 of 2016 and having failed in his attempt to take criminal action against several persons including the Prime Minister of India and others bureaucrats, the petitioner now resorting to this unethical litigation by filing the present petition to withdraw and transfer O.S.No. 62 of 2012 pending on the file of the Court of XIII Additional District Judge, Narsaraopet, to City Civil Court, Hyderabad, though the property is situated within the jurisdictional limits of the Court below.

The first ground for seeking transfer is that respondent No. 1 is having contacts with political leaders and with the Presiding Officer of the trial Court. The private complaint filed by the petitioner was returned granting liberty to file

the same before appropriate Court. Accordingly, he represented the same before the Junior Civil Judge, Chilakaluripet, which was also returned *vide* SR.No. 5395 of 2016 dated 16-12-2016. The petitioner also made a serious allegation at the end of para No. 5 of the petition that if O.S.No. 62 of 2012 is allowed to continue before the Court below, he is sure that he will not get fair justice either in the Court below or in the entire State of Andhra Pradesh since the existing officers and the political leaders are working as hand-in-glove with the respondents. Making serious allegation about political affinity not only to the Presiding Officer of the Court below but also to the entire judiciary in the State of Andhra Pradesh is a statement tends to malign the entire judicial institution in the State of Andhra Pradesh for the purpose of withdrawal and transfer a single suit wherein the petitioner is arrayed as a defendant. Conveniently, the petitioner did not bring on record the complaint he filed or at least a copy of the same but placed on record Photostat copy of the order passed by the District Judge while returning the complaint. Therefore, it is difficult for this Court to examine the accusation made against the Presiding Officer of the Court below with which this Court is concerned in the present petition. Therefore, inventing cause by filing a private complaint against the officer and others is nothing but creation of ground to get rid off the Court and restrain the Court from deciding the *lis* pending before it *i.e.* O.S.No. 62 of 2012. It is curious to note that though the petitioner is also a party in other suit O.S.No. 59 of 2015, he conveniently avoided to seek transfer of the mater on the same grounds though clubbed with O.S.No. 62 of 2012. If really the petitioner is apprehending injustice in the hands of the Presiding Officer of the Court below, he would have sought for withdrawal and transfer of other suit O.S.No. 59 of 2015 but conveniently he did not seek any relief under Section 24 of C.P.C. for withdrawal and transfer of O.S.No. 59 of 2015.

The petitioner, being a seasoned litigant, appears to have invented the ground to denounce the prestige of the entire judiciary of the State of Andhra Pradesh by making unfounded and unethical allegations not only against the Presiding Officer of the Court below but also against the entire judiciary in the State of Andhra Pradesh. Making such serious allegations would attract contempt. When such an unfounded allegation is made against the entire judiciary, Courts cannot easily withdraw and transfer any suit or proceeding based on mere statement that he would not get justice, unless Court finds that there is some material to substantiate the apprehension of the petitioner that he would not get justice. Therefore, the allegations made against the Presiding Officer of the Court below and the entire judiciary in the State of Andhra Pradesh is a matter of serious concern.

The Apex Court laid down the following general principles to exercise jurisdiction under Section 24 of C.P.C. to withdraw a pending suit and transfer to any other Court in ***Kulwinder Kaur alias Kulwinder Gurcharan Singh Vs. Kandi Friends Educational Trust and others***¹:

"Section 24 of the Code of Civil Procedure confers comprehensive power on the Court to transfer suits, appeals or other proceedings "at any stage" either on an application by any party or suo motu. Although the discretionary power of transfer of cases cannot be imprisoned within a straitjacket of any cast-iron formula unanimously applicable to all situations, it cannot be gainsaid that the power to transfer a case must be exercised with due care, caution and circumspection.

It is true that normally while making an order of transfer, the Court may not enter into merits of the matter as it may affect the final outcome of the proceedings or cause prejudice to one or the other side. At the same time, however, an order of transfer must reflect application of mind by the Court and the circumstances which weighed in taking the action. Powers

¹ AIR 2008 SC 1333

under Section 24 of the Code of Civil Procedure cannot be exercised ipse dixit in the manner in which it has been done in the present case."

It is further held that the following facts have to be taken into consideration in a situation in which it is duty of Court to transfer the case:

- (i) balance of convenience or inconvenience to the plaintiff or the defendant or witnesses;*
- (ii) convenience or inconvenience of a particular place of trial having regard to the nature of evidence on the points involved in the suit;*
- (iii) issues raised by the parties;*
- (iv) reasonable apprehension in the mind of the litigant that he might not get justice in the court in which the suit is pending;*
- (v) important questions of law involved or a considerable section of public interested in the litigation;*
- (vi) "interest of justice" demanding for transfer of case, etc.*

The above guidelines are illustrative, but not substantive guidelines."

One of the grounds raised in the petition is covered by guideline No. iv referred to above. In a later judgment in **Usmangani Adambhai Vahora Vs. State of Gujarat and another**², the Apex Court considered the ground invented by parties that they would not get justice in the Court for seeking transfer of pending criminal case before one Court and transfer the same to other Court exercising power under Section 406 of the Code of Criminal Procedure (for short, 'Cr.P.C.'). The law is one and the same for withdrawal and transfer based on apprehension that the party would not get justice in the Court. The Apex Court in the above judgment adverted to the principles laid down in **Gurcharan Dass Chadha Vs. State of Rajasthan**³, wherein it was held as follows:

"... The law with regard to transfer of cases is well-settled. A case is transferred if there is a reasonable apprehension on the part of a party to a case that justice will not be done. A petitioner is not required to

² S.L.P. (Criminal) Nos. 9374-9375 of 2015

³ AIR 1966 SC 1418

demonstrate that justice will inevitably fail. He is entitled to a transfer if he shows circumstances from which it can be inferred that he entertains an apprehension and that it is reasonable in the circumstances alleged. It is one of the principles of the administration of justice that justice should not only be done but it should be seen to be done. However, a mere allegation that there is apprehension that justice will not be done in a given case does not suffice. The Court has further to see whether the apprehension is reasonable or not. To judge of the reasonableness of the apprehension the state of the mind of the person who entertains the apprehension is no doubt relevant but that is not all. The apprehension must not only be entertained but must appear to the Court to be a reasonable apprehension."

Similarly, in **Abdul Nazar Madani Vs. State of Tamil Nadu**⁴, in para No. 7, the Apex Court discussed the ground of apprehension that party will not get justice and concluded that the apprehension that he will not get fair justice is absolutely mercurial and cannot be said to be reasonable. Therefore, in the absence of any material to substantiate the ground that he would not get justice, the Court cannot exercise power under Section 24 of C.P.C. to withdraw and transfer any matter pending on the file of one Court to other.

The petitioner though filed private complaint against the Presiding Officer of the Court below and others by his wild and atrocious attempt to defame the entire judiciary in the State of Andhra Pradesh, which is not based on any material, the Court cannot withdraw and transfer the suit O.S.No. 62 of 2012 pending on the file of Court below to any other Court. If such practice is encouraged by this Court, it is difficult to run the institution as the institution exists based on faith and confidence of the litigant public. If the litigant loses confidence or faith on the institution, no officer will work in the judiciary. If such practice is not nipped at the bud, it will spread like cancer in the entire body of the judicial institution. Similarly, after filing private complaint against the

⁴ (2000) 6 SCC 204

Presiding Officer and others, now made serious allegations against the officer before whom the suit is pending and if the suit is withdrawn and transferred to other Court on such ground, directly it amounts to encouraging unscrupulous and disgruntled litigants to adopt such unethical practice to get rid off the Court and stall the proceedings for a considerable time approaching higher Courts for transfer. The Presiding Officers of the Court are bound to decide thousands of matters during their tenure as judicial officers expressing their opinion in favour of one or other. The judgments are subject to correction by Appellate Courts, if the party aggrieved preferred an appeal, and the Presiding Officers are bound to err in one or other matters while pronouncing judgments, that by itself is not a ground to lay criminal prosecution against those officers. If on such ground the pending matters are withdrawn and transferred, every judicial officer has to face thousands of criminal prosecutions during their tenure. Therefore, on account of invention of parties and filing private complaint against the Presiding Officer based on unfounded allegations inventing a ground for withdrawal and transfer, the proceedings cannot be withdrawn and transferred.

Normally, the officers are not being posted in their native districts and most of the officers are working in the station having come down from far of place in the State and the officers are working in totally a charged atmosphere in the Courts on account of their self imposed restrictions or otherwise. In a similar situation, the Apex Court in ***K.P.Tiwari Vs. State of M.P.***⁵ observed that

"It has also to be remembered that the lower judicial officers mostly work under a charged atmosphere and are constantly under a psychological pressure with all the contestants and their lawyers almost breathing down their necks – more correctly up to their nostrils. They do not have the benefit of a detached atmosphere of the higher courts to think coolly and

⁵ 1994 Supp. (1) SCC 540

decide patiently. Every error, however gross it may look, should not, therefore, be attributed to improper motive."

Relying on the above judgment, the Apex Court in **Usmangani Adambhai Vahora** (1st *supra*) is of the view that based on unfounded allegations against an officer, matters pending before such Courts cannot be withdrawn and transferred to any other Court.

The petitioner filed private complaint before the District Judge making certain allegations not only against the Presiding Officer of the Court below but also against several others referred to in the earlier paras. However, the allegations made in his complaint are not known to this Court as the complaint copy is not placed on record. Normally, judges will not venture to commit offence while discharging duties as judicial officers. The officers in the judicial process, if commit any act which is unbecoming or found guilty for misconduct, higher Courts will not leave any officer unpunished. The allegation made in the petition that the petitioner had no confidence in the entire judiciary or he will not get fair justice if the matter is tried by the officers in the entire State of Andhra Pradesh is nothing but scandalizing the Court and such word tends to lower the authority of the Court. The contempt law is not meant for protecting judges but it is for the protection of the institution of the judiciary from such like defamatory, libelous, scurrilous, vilificatory and unfounded attack and criticism against the system itself. Thus, the allegations made against the officer and against the entire judicial institution in the State of Andhra Pradesh, which is an identifiable body with certainty, would tend to lower the prestige of the judiciary. The officers, who are trained, will never face the risk of judicial hypersensitivity. The very nature of the judicial function makes judges sympathetic and responsive. Their very training blesses them with 'insensitivity', as opposed to hypersensitivity. Judges are always seeking good reasons to explain wrong

conduct. They know there are always two sides to a coin. They neither give nor take offence because they deal with persons and situations impersonally, though with understanding judges more than others realize the foibles, the frustrations, the undercurrents and the tensions of litigants and litigation. But, as elsewhere, lines have to be drawn. The strains and mortification of litigation cannot be allowed to lead litigants to tarnish, terrorize and destroy the system of administration of justice by vilification of judges. It is not that judges need be protected; judges may well take care of themselves. It is the right and interest of the public in the due administration of justice that has to be protected as observed in **Asharam M. Jain Vs. A.T. Gupta and others**⁶. In view of these observations of the Apex Court in **Asharam M. Jain** (6th *supra*), it is the need of the day to protect the honest judicial officers by higher Courts to instill confidence on them to administer justice in accordance with law, otherwise it is difficult for any officer to discharge his functions in judicial process effectively since the officer constantly has to put a guard observing such scurrilous, vilificatory and unfounded attack and criticism made against him. In such case, the Presiding Officers of the Courts will not discharge their duties as effectively as possible.

The public have an interest, an abiding and a real interest, and a vital stake in the effective; and orderly administration of justice, because, unless justice is so administered, there is the peril of all rights and liberties perishing. The Court has the duty of protecting the interest of the public in the due administration of justice and, so, it is entrusted with the power to commit for Contempt of Court, not in order to protect the dignity of the Court against insult or injury as the expression "Contempt of Court" may seem to suggest, but, to protect and to vindicate the right of the public that the administration of justice shall not be prevented, prejudiced, obstructed or interfered with. It is a mode of

⁶ AIR 1983 SC 1151

vindicating the majesty of law, in its active manifestation against obstruction and outrage. The law should not be seen to sit by limply, while those who seek its protection lose hope. So, the Court has to approach the question not from the point of view of the judge, whose honour and dignity require to be vindicated, but from the point of view of the public who have entrusted the task of due administration of justice. Having given utmost consideration, the Court come to a conclusion that it is not open to the Court to accept the easy and ready solution suggested. Therefore, the contumacious disregard of all decencies, such as, the remarks made against an officer without any basis would directly amount to contempt as held by the Apex Court in ***Advocate – General, State of Bihar Vs. Madhya Pradesh Khair Industries and another***⁷. In a similar situation in ***R.Subba Rao Vs. Advocate General, Andhra Pradesh***⁸, a serious allegation was made against sitting judges of the High Court and filed a complaint after issuing notice but the High Court heavily laid on him and sentenced him for contempt and the same is confirmed by the Apex Court in the judgment referred *supra* holding that imputing malice, partiality and dishonesty to the Subordinate Judge in the judicial adjudication of the suits against the appellant, constitute a deliberate attempt to scandalize the judge, to terribly embarrass him and to lower the authority of his office and the Court. The act and conduct of the appellant in issuing notice squarely fell within criminal contempt as defined under Section 2 (c) of the Act.

A Division Bench of Punjab and Haryana High Court in ***Court On its Own Motion Vs. Ajit Singh and others***⁹ considered the criticism against the Presiding Officer of the Court, making vilificatory and defamatory statements in a transfer petition filed under Section 24 of C.P.C. but ultimately those allegations

⁷ AIR 1980 SC 946

⁸ AIR 1981 SC 755

⁹ (1986) ILR 2 P & H 5

were found to be false. Therefore, unfounded allegations made in the transfer application filed under Section 24 of C.P.C. would amount to contempt and the Court initiated proceedings and took action against the contemnor. Here, it appears that no advocate came forward to file such an application. Therefore, the party himself filed an application for withdrawal and transfer of O.S.No. 62 of 2012 pending before the Court below, making such serious allegations against the entire body of judiciary in the State of Andhra Pradesh.

In ***The Advocate General, Andhra Pradesh Vs. D.Seshagiri Rao***¹⁰, a Division Bench of this Court held as follows while considering exciting statements against judiciary:

"In our opinion, it is not permissible to a contemnor to establish the truth of his allegations as the arraignment of the judges 'excites in the minds of the people a general dissatisfaction with all judicial determinations and indisposes their minds to obey them' and that is a very dangerous obstruction to the course of justice."

Here also a serious allegation against the Presiding Officer of the Court is made, lodged a complaint against him and not only that made an allegation that he will not get fair justice if the matter is tried in any Courts in the entire State of Andhra Pradesh as they are working with politicians as hand-in-glove. This statement will seriously excite the minds of the public and create dissatisfaction with all judicial determinations by judges in the State of Andhra Pradesh. Such an act would amount to criminal contempt.

Similarly, in ***Shri Baradakanta Mishra Vs. Registrar of Orissa High Court and another***¹¹, the Supreme Court while deciding a contempt observed that the Courts of justice in a State from the highest to the lowest are by their constitution entrusted with functions directly connected with the administration of justice, and it is the expectation and confidence of all those who have or likely to

¹⁰ ILR (1959) 1 AP 1282

¹¹ AIR 1974 sc 710

have business therein that the Courts perform all their functions on a high level of rectitude without fear or favour, affection or ill-will. On account of vilificatory statement, which is not substantiated by the petitioner, it will create a fear complexion in the mind of every Presiding Officer of the Court to discharge his judicial functions as effectively as possible without fear or favour, affection or ill-will while experiencing untold trauma for days together and such vilificatory statements brazenly made against the officers would crumble the confidence of not only an individual officer but also the confidence of entire judiciary as a whole.

Use of the Court for wrecking vengeance, or using the Court as a tool to foster injustice, would poison the purity of judicial administration; the role of judges as protectors of the rights can well be discharged only when they decide genuine causes; a concocted, fabricated, false and spurious case by one party against the other using the Court as a forum would cause immense damage to the judicial institution besides damaging the reputation of the person dragged to the Court and the Court has to be on constant vigil to reject such cases as observed by this Court in ***Madupu Harinarayana @ Maribabu, S/o M.Chandraiah, represented by his GPA T.D.Dayala Vs. The learned I Additional District Judge and others***¹². Here, the petitioner filed the present petition after five years from the date of filing the suit before the Court below and after prosecuting the suit effectively for five years without any grievance against the Presiding Officer, now stooped to the extent of making scurrilous remarks not only against the Presiding Officer of the Court but also against the entire judiciary in the State of Andhra Pradesh to excite the public to lose confidence on the judicial determinations by judges in the State of Andhra Pradesh. Such concocted, false and spurious cases must be dealt with strictly to avoid immense

¹² 2011 (2) ALT 405

damage to the judicial institution and also to the reputation of the person dragged to the Court. The allegations made against the entire judiciary in the State of Andhra Pradesh is nothing but scandalizing and the word scandalize needs no further clarification as it was precisely discussed what it means in para No. 14 of the judgment in ***Court on its own motion*** (9th *supra*). Making such scandalizing and brazen statements against the entire judiciary amount to contempt.

In ***Umed Singh Vs. Bahadur Singh and others***¹³, a statement was made that justice becomes a marketable commodity like vegetable or cloth which can be purchased on payment. It means judgments can be purchased on payment of certain coins. It means that decisions are not given on merits not according to law, but according to price which one can pay. The fact that the occasion of function attended by the entire elite of the city, the highest dignitary and the top members of judiciary and the several members of the Bar, where the temple of justice was being inaugurated, and Honourable Chief Justice was being welcomed and greeted, was chosen the time and the venue for such scandalous attacks, makes the nature of the contempt more serious, and the scandalization became so notorious that even the important newspaper of the State carried banner headlines against judiciary based on the report of the contemnor's speech and such allegations would attract criminal contempt under the Contempt of Courts Act, 1971 (for short, 'the Act of 1971'). In the present case, as discussed above, the petitioner lost his case even in the Supreme Court and in the suit filed by the respondents for his eviction, he successfully dragged the matter for more than five years without any progress in the case and chose to file private complaint against the top leaders of the country to low paid employee in the Court *i.e.* bench clerk and created a ground for seeking transfer though the private complaint was returned by the District Court and the Judicial Magistrate

¹³ MANU/RH/0132/1980

of I Class, Chilakaluripet, without annexing a copy of the complaint to the petition obviously for the reasons best known to him. If such practice is permitted, it is difficult for any officer to work without fear or favour in discharging the duties effectively, more particularly concentrating on old matters in pursuance of the directions issued by higher Courts from time to time. The petitioner filed the present petition as an abuse of process of the Court to wreck vengeance not only against the Presiding Officer of the Court below and several others including the Prime Minister of India and the Chief Minister of the State of Andhra Pradesh and several other bureaucrats of the State and Centre and if such practice is allowed to the litigants, every judicial officer has to face criminal charge in every case for one reason or the other and instead of discharging their judicial functions, they will be driven to Courts in connection with criminal cases filed against them. Therefore, the ground invented by the petitioner can never be a ground for withdrawal of the suit and transfer the same to City Civil Court, Hyderabad. Wisely or unwisely, the petitioner chose only City Civil Court, Hyderabad, which is situated in a different State though the property is situated and the parties to the suit are residents of Chilakaluripet which is within the local limits of Narsaraopet District Court. Hence, the ground raised in the petition would never be accepted to exercise jurisdiction under Section 24 of C.P.C. to withdraw and transfer the matter to City Civil Court, Hyderabad, as per his choice.

The behaviour of officers both on and off the bench may create suspicion. The tone and temper may also sometimes give raise to such suspicion. Therefore, the officers must act within the four corners of self imposed limitations subject to rules governing them. If, for any reason, the officers act in derogation to their official duties either on or off the bench or guilty of misconduct, this Court will deal with such officers in accordance with law on administrative side.

Despite constant vigil by this Court, some of the officers transgressing their limits and facing inquiries but in the present facts, no complaint against the Presiding Officer of the Court below is made till date and even not placed on record. Therefore, the unfounded allegations and filing private complaint without any basis can be described as atrocity not only against the individual officer but also against the entire judiciary in the State of Andhra Pradesh. The officers must behave in such manner without giving scope for any apprehension in the minds of ordinary litigant public. It is incumbent upon well trained and experienced officers to act properly in discharging their official duties both during and outside the employment without giving minimum scope for such criticism. Any officer who committed any intentional folly in judicial functions, he will be liable for appropriate action and will be dealt with by this Court in accordance with the rules applicable. If it is not intentional or it is accidental, the remedy is elsewhere. Therefore, the allegations made against the officer if substantiated, he is liable to be proceeded on administrative side but on such vague allegations, pending suits cannot be withdrawn and transferred.

One of the vague allegations made against the respondents is that the petitioner is facing life threat to attend the Court at Narsaraopet. This contention is not based on any material and the petitioner, having prosecuted the proceedings without any such apprehension for a period of five years, now invented life threat to attend the Court which is not based on any material. In fact, no specific instance is referred in the petition about such threat to life in the hands of the respondents or any other person. No police complaint was lodged against any person and even if lodged, it is not placed on record. No complaint was made to the Presiding Officer of the Court about such threat while attending Court. In the absence of any material, it is difficult to believe the life threat being faced by him. In a similar situation in ***Parminder Kaur (Smt.) Vs. State of Uttar***

Pradesh and another¹⁴, the Supreme Court held that vague and unfounded allegations in transfer application against the respondents would not form the basis for transfer while exercising power under Section 406 of the Code of Criminal Procedure. In the facts of the above judgment, the first ground urged by the petitioner is that if the petitioner has to go to Rampur to attend the proceedings in the trial Court, her safety would be in danger or she apprehends physical harm to herself from respondent No. 2 or anti-social elements and the Court concluded that it is too nebulous a ground for transferring the cases from the trial Court, Rampur, to the Court of competent jurisdiction at Delhi or Chandigarh. The petitioner has not substantiated her apprehension of threat or bodily harm or intimidation from respondent No. 2 or other anti-social elements as alleged by her. The facts are almost identical to the present case and the allegations made against the respondents are unsubstantiated by any material and similarly, the allegations made against the Presiding Officer are also unfounded. Therefore, on such ground, the Court cannot exercise power under Section 24 of C.P.C. to withdraw and transfer the suit to a place which is at a distance of more than 350 K.Ms. *i.e.* City Civil Court, Hyderabad which is situated in the State of Telangana. If really the petitioner is facing such life threat, how he is conveniently staying at Chilakaluripet in the ground floor of the same building where the respondents are staying is not explained and if the apprehension is real, he would have stayed elsewhere to protect himself. Thus, this contention itself would establish that the allegation of life threat in the petition is imaginary and invented for the purpose of transfer petition. Therefore, I find absolutely no material in support of the said contention and on the basis of such allegation, the pending suit before the Court below cannot be withdrawn and transferred to City Civil Court, Hyderabad.

¹⁴ (2007) 15 SCC 307

The petitioner, having lost his case even in the Supreme Court, started a different litigation and filed the present petition laying foundation by filing private complaint which was returned by both Courts below is nothing but abuse of process of the Court and this is a vexatious litigation based on unfounded allegations. Such person of recalcitrant nature and suffering from sadomasochism should be dealt with appropriately. Section 35-A of C.P.C. enables the Court to award compensatory costs in case the party resorts to vexatious litigation. In the present case, the petitioner lost his claim even in the Supreme Court and when the respondents filed suit for recovery of possession and other reliefs, the petitioner started filing complaint against the respondents, the Presiding Officer of the Court below and others and laid foundation to seek transfer of the suit pending before the Court below which is a vexatious litigation. The Apex Court in ***M/s. Alcon Electronics Pvt. Ltd. Vs. Celem S.A. of Fos 34320 Roujan, France and another***¹⁵ held that

"The person who resorted to vexatious litigation is liable to pay compensatory costs."

In ***Vinod Seth Vs. Devinder Bajaj and another***¹⁶, the Supreme Court held that the costs to be imposed against a person who resorted to vexatious, false, frivolous and speculative litigation is liable to pay compensatory costs which must be realistic. In the present case, the petitioner conveniently laid foundation by filing private complaint against the Presiding Officer and others and requested this Court to withdraw and transfer the matter on the basis of returned complaint. Therefore, it is nothing but vexatious litigation. In ***Sanjeev Kumar Jain Vs. Raghubir Saran Charitable Trust and others***¹⁷, the Supreme Court made certain suggestions for appropriate changes in the provisions relating to award of costs to Government, Law Commission etc., and held that

¹⁵ AIR 2017 SC 1

¹⁶ (2010) 8 SCC

¹⁷ (2012) 1 SCC 455

there is a necessity of strict enforcement of Section 35-A of C.P.C. and legislature should consider adding description of costs awardable under Section 35-A of C.P.C. as punitive costs. Therefore, the view of the Apex Court is that the costs awardable in a vexatious litigation must be punitive. However, no such amendment is made to Section 35-A of C.P.C. till now to impose costs more than Rs.3,000/-. In a similar situation where the party resorted to vexatious litigation, this Court imposed Rs.3,000/- as compensatory costs exercising power under Section 35-A of C.P.C. in ***Prathi Bhogaraju Vs. Thammiseti Veeraraju and others***¹⁸.

Taking into consideration the facts and circumstances of the case and the contention of the petitioner at different stages, I find that filing of the present petition is vexatious litigation resorted to by the petitioner without any basis and therefore it is appropriate to impose compensatory costs on the petitioner, instead of dealing him under the Act of 1971, payable to the respondents to meet the ends of justice. Hence, I impose compensatory costs of Rs.3,000/- on the petitioner payable to the respondents.

In view of my foregoing discussion, the petition is dismissed imposing compensatory costs of Rs.3,000/- on the petitioner payable to the respondents. Pending miscellaneous petitions, if any, shall stand dismissed in consequence.

M.SATYANARAYANA MURTHY, J.

Date: 28-06-2017.

Note: L.R. Copy to be marked.

B/O

JSK

¹⁸ AIR 2001 AP 465