

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

TRANSFER CRIMINAL PETITION No.116 of 2017

ORDER :

Heard learned counsel for the petitioners, learned Public Prosecutor and perused the record.

2. This criminal petition is filed to withdraw C.C.No.8 of 2014 pending on the file of IX Special Magistrate, Somajiguda, Hyderabad, and transfer the same to any other equivalent Court.

3. Learned counsel for the petitioners would submit that the petitioners were not given adequate opportunity to cross-examine PW.1 and got marked some documents. There was shouting from the counsel for respondent No.2 and thus some disturbance has been created in the Court. The Presiding Officer of the trial Court could not prevent the counsel for respondent No.2 from making such acts. The counsel for the petitioners could not effectively cross-examine PW.1

4. On the other hand, learned counsel for respondent No.2 denied the alleged happenings in the trial Court and also contended that adequate opportunity is being given to the petitioners to cross-examine PW.1. The Presiding Officer of the trial Court is not silent as alleged and ultimately prayed to dismiss the same.

5. The point for determination is:

Whether the request of the petitioners can be considered?

6. It is evident from the record that the petitioners have filed Tr.Crl.M.P.No.2984 of 2016 in SR.No.11606 of 2016 on the file of

the Metropolitan Sessions Judge, Hyderabad, and the said Court was pleased to dismiss the same on 10.04.2017. There is record to show that the petitioners have sought 22 adjournments and four or five occasions costs were imposed on them. The matter was also adjourned 4 or 5 times at the instance of respondent No.2. The Court dealing with the matter permitted respondent No.2 to file petition under Section 482 Cr.P.C. to correct the dates. An opportunity was given to the petitioners to file counter. Costs were also imposed for causing delay in filing counter to that application. The calendar case is filed for the offences under Sections 138 and 142 of N.I.Act and it is coming for cross-examination of PW.1 from 19.12.2015 i.e., more than 1 ½ years have passed, but one or the other reason, cross-examination of PW.1 is not conducted even after imposition of costs. It goes to show due to the attitude of both parties, the matter has been adjourned. There is nothing to hold that the conduct of the Presiding Officer had caused any prejudice to the petitioners. There is nothing to believe that the petitioners were prevented from cross-examining PW.1 by the Presiding Officer of the trial Court in any manner. It appears that the petitioners want to delay of the proceedings before the trial Court. If a specific question is put in cross-examination, the same is require to be recorded and the Presiding Officer has to give reasons for rejecting the same. There is no such mention on behalf of the petitioners. The court of Sessions while dealing with the Tr.Crl.M.P.No.2984 of 2016 had elaborately discussed the entire

submissions made by both the counsel and declined to transfer C.C.No.8 of 2014 giving elaborate reasons. There is nothing to take a different view. Hence, the criminal petition is devoid of merits.

7. Accordingly, the criminal petition is dismissed.

8. Miscellaneous petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

9th October 2017.

mar

