

**HON'BLE Dr. JUSTICE SHAMEEM AKTHER**  
**TRANSFER CRIMINAL PETITION No.143 OF 2017**

**ORDER:**

This Transfer Criminal Petition, under Section 407 of Cr.P.C., is filed by the petitioner seeking to withdraw Sessions Case No.55 of 2016 from the file of the Court of III Additional District and Sessions Judge, Nellore and transfer it to the Court of Special Judge for Trial of the Cases under the S.Cs. and S.Ts. (POA) Act, 1989, Nellore.

2. Heard Sri G. Venkateswarlu, learned counsel for the petitioner, learned Public Prosecutor appearing for the 1<sup>st</sup> respondent-State, Sri Nimmagadda Venkateswarlu, learned counsel for the 2<sup>nd</sup> respondent, and Sri Satish Kumar Eerla, learned counsel for the 3<sup>rd</sup> respondent, apart from perusing the material available on record.

3. Learned counsel for the petitioner would submit that respondent Nos.2 and 3 herein picked up a quarrel at their work place, i.e., the Sub-Station, 33/11 Electrical Sub-Station Compound, Kaligiri Village and Mandal, SPSR Nellore District, with the husband of the petitioner, raising the caste of the petitioner; respondent Nos.2 and 3 threatened the husband of the petitioner with dire consequences and abused him touching the caste; with an intention to kill the husband of the petitioner, her husband was called to Sub-station, later he was taken to No.1 pole and the accused-respondent Nos.2 and 3 herein intentionally put on the switch and the husband of the petitioner fell down from the pole with electrical shock and died; basing on the report given by the petitioner, Kaligiri police registered a case in Crime No.25 of 2013 for the offence under Section 304(III) r/w 34 I.P.C. and Section 3(2)(v) of the S.Cs. and S.Tc. (POA) Act, 1989; a charge sheet was also filed before the Additional

Judicial Magistrate of First Class, Kavali, vide P.R.C. No.8 of 2016 for the aforesaid offences and the same was committed to the Court of III Additional District and Sessions Judge, Nellore, vide Sessions Case No.55 of 2016 for the offence under Section 304(III) r/w 34 I.P.C. and Section 3(2)(v) of the S.Cs. and S.Ts. (POA) Act, 1989; the Special Courts are constituted to deal with the cases relating to the offences committed under the provisions of the S.Cs. and S.Ts. (POA) Act, 1989; therefore, the Court of III Additional District and Sessions Judge, Nellore, has no jurisdiction to entertain the said Sessions Case; the schedule of trial of the Sessions Case is also fixed and the trial has already been commenced and the if the trial of the Sessions Case is completed without having jurisdiction, injustice will be caused to the petitioner; ultimately, prayed to allow petition as prayed for.

4. On the other hand, learned Public Prosecutor appearing for the 1<sup>st</sup> respondent-State, Sri Nimmagadda Venkateswarlu, learned counsel for the 2<sup>nd</sup> respondent, and Sri Satish Kumar Eerla, learned counsel for the 3<sup>rd</sup> respondent, have contended that there is no need to transfer the Sessions Case No.55 of 2016 from the Court of III Additional District and Sessions Judge, Nellore, to the Court of Special Judge for trial of the cases under the S.Cs. and S.Ts. (POA) Act, Nellore, and prayed to dismiss the petition.

5. In view of the rival submissions, the point for determination is whether S.C. No.55 of 2016 pending on the file the III Additional District and Sessions Judge, Nellore, can be withdrawn and transferred to Court of Special Judge for trial of the cases under the S.Cs. and S.Ts. (POA) Act, Nellore, as contended by the petitioner?

6. **POINT**: There is no doubt that the offences under the S.Cs. and S.Ts. (POA) Act, 1989, are required to be tried by a Special Court constituted under the S.Cs. and S.Ts. (POA) Act, 1989. A copy of committal order dated 17.02.2016 passed in P.R.C. No.8 of 2016 by the Additional Judicial Magistrate of First Class, Kavali, is placed before this Court. It reveals that the offence under Section 304(II) I.P.C. was made out against the accused and the committal court held that it is exclusively triable by the Court of Sessions and consequently committed the same to the Court of Sessions having jurisdiction. As per the certified copy of the charges framed in Sessions Case No.55 of 2016, the trial Court framed charges against the accused-respondent Nos.2 and 3 herein for the offence under Section 304 I.P.C. and directed them to be tried for the said charge. Had the case was committed for any of the offences under the provisions of the S.Cs. and S.Ts. (POA) Act, 1989, certainly, it is required to be committed to the Special Court constituted under the S.Cs. and S.Ts. (POA) Act, 1989. There is no such material on record. Therefore, this petition is devoid of merits and it is liable to be dismissed.

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

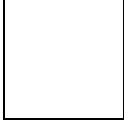
8. As a sequel, miscellaneous petitions, if any, pending in this Transfer Criminal Petition shall also stand dismissed.

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**Dr. SHAMEEM AKTHER, J**

Date: 27-10-2017.  
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**HON'BLE Dr. JUSTICE SHAMEEM AKTHER**



**Tr.Crl.P. No. 143 OF 2017**

Date. 27-10-2017

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