

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

TRANSFER CRIMINAL PETITION No.156 of 2011

ORDER:

This Transfer Criminal Petition, under Section 407 Cr.P.C., is filed seeking to transfer Calendar Case No.1 of 2009 from the file of Court of Judicial Magistrate of First Class, Anaparthi, East Godavari District, to the file of Court of Special Sessions Judge for trial of cases under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Rajahmundry, East Godavari District, to be tried along with Sessions Case No.66 of 2010.

2. Heard the arguments of learned counsel for the petitioner and the learned Public Prosecutor.

3. Learned counsel for the petitioner submits that these cases are case and counter case, and the complainant in one case is the accused in other case, and if two cases are tried by two different Courts, there will be conflicting decisions and hence sought for transfer of Calendar Case No.1 of 2009 to the Court of Special Sessions Judge for trial of cases to try along with Sessions Case No.66 of 2010.

4. Section 408 Cr.P.C., deals with power of Sessions Judge to transfer cases and appeals, which reads as follows:

“(1) Whenever it is made to appear to a Sessions Judge that an order under this sub- section is expedient for the ends of justice, he may order that any particular case be

transferred from one Criminal Court to another Criminal Court in his sessions division.

(2) The Sessions Judge may act either on the report of the lower Court, or on the application of a party interested, or on his own initiative.”

5. It is settled legal position that cases and counter cases shall be tried by the same Court to avoid conflicting of decisions. According to Section 408 Cr.P.C., the petitioner can move an application before the learned Special Sessions Judge for trial of cases under Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Rajahmundry, East Godavari District, for transfer of the aforementioned Calendar Case to try the same along with the case pending before the learned Special Sessions Judge.

6. Accordingly, the Transfer Criminal Petition is dismissed giving liberty to the petitioner, as stated above. Miscellaneous petitions, if any, pending in this transfer criminal petition shall stand closed.

GUDISEVA SHYAM PRASAD, J

OCTOBER 11, 2017

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Date:11.10.2017

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