

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Tr.CrI.P.Nos.185 and 186 of 2016

COMMON ORDER :

Heard the petitioner, earlier argued by the learned counsel for her and now she herself argued at length in both the matters and the learned counsel for the respective respondents covered by the two cases of the two transfer petitions pending before the I Addl.Judl.Magistrate of First Class, Warangal which she is seeking to transfer to any competent criminal Magistrate Court at Nampally, Hyderabad. It is not even her case that in Nampally Court, there are any other criminal cases inter se between them but for saying of maintenance case u/sec.125CrPC and that maintenance case cannot be decided with criminal cases even to consider such a request. The respondents are admittedly of Karnataka State at or near Bangalore all through end of the way.

It is the submission of the learned counsel for the respondents respectively in the two matters that they have already engaged an advocate at Warangal and also representing with the permission of the Court u/sec.205CrPC through respective special vakalath holders if at all the matters are being transferred to any of the Nampally Courts, at Hyderabad, it is a difficult task for them to secure those special vakalath holders or advocates from Warangal to Nampally, Hyderabad on every adjournment or to secure fresh advocates.

There is a force in their submission even otherwise, the defacto-complainant/transfer petitioner in the two criminal cases need not go for every adjournment but for giving of evidence, leave about if at all she wants to participate in monitoring the same, she can u/ sec.302 r/ w Section 24(8) proviso of the Amended CrPC, as held by this Court in Delta Car Pvt.Ltd. Vs. Sanjiv Shah¹ to engage an advocate to conduct prosecution. Once such is the case, there are no grounds to withdraw the cases from Warangal and transfer to Hyderabad. At this stage, it is her submission that the DVC No.6 of 2012 pending on the file of the VI Addl.JFCM, Warangal, was ended in dismissal for her timely non-attendance on adjournment being the defacto-complainant and she filed restoration petition in CrI.M.P.No.3489 of 2015 which is still pending without allowing the same. This Court to subserve the ends of justice, after hearing both sides by invoking Sec.482CrPC, allow that restoration petition without need of passing any further orders by the lower Court on any application for that purpose but for to restore by virtue of this order.

With these observations, these two Transfer Petitions are disposed of. The C.C.No.427 of 2012 in FIR No.30 of 2012 and S.R.No.4909 of 2012 in C.C.No.427 of 2012 pending on the file of the I Addl.JFCM, Warangal are transferred to VI Addl.JFCM, Warangal, to try simultaneously with DVC No.6 of 2012 since now restored is pending and the Court to post all the three matters on

¹ LAWS(APH)-2014-7-167

even dates to the extent of possible for convenience to the parties and advocates to participate according to law. Needless to say the respondents can move the learned Magistrate if not already permitted by an application u/sec.126 r/w 205CrPC, once representing through advocate, not to insist personal appearance in the DVC case also.

Consequently, Miscellaneous Petitions, if any, pending in these Transfer Petitions, shall stand closed.

JUSTICE Dr. B. SIVA SANKARA RAO

Date:08.12.2017
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