

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.CRL.P.No.285 OF 2014

ORDER:

This transfer criminal petition is filed under Section 407 of Cr.P.C with a request to withdraw C.C.No.206 of 2013 pending on the file of IV Additional Chief Metropolitan Magistrate, cum Additional Mahila Magistrate at Vijayawada and transfer the same to any competent Court at Cyberabad, Ranga Reddy District on two grounds.

The first ground is in view of the judgment in **Dasarath Rupsingh Rathod v State of Maharastra and another¹**, the Court at Vijayawada has no jurisdiction and the second ground is that the second respondent is influential person and apprehending danger to the life of the petitioner.

In view of the Ordinance dated 15.06.2015 incorporating Section 142-A of the Negotiable Instruments Act, the first ground is no more available to the petitioner.

The second ground urged before this Court is that the second respondent is influential person in the locality and apprehending danger to his life, whenever he attends the Court in connection with the case. But there is absolutely no basis for apprehension and in the absence of any material about apprehension of danger to life of the petitioner, the Court cannot withdraw and transfer the case pending before one Court to other Court exercising power under Section 407 Cr.P.C. The petitioner did not lodge any complaint against the second respondent about such apprehension or report to the Presiding Officer of the Court.

¹ 2014(2) ALD (CrL)190 (SC)

At the end, taking advantage of the observations in the Judgment in **Bhaskar Industries Ltd v Bhiwani Denim and Apparels Ltd**², learned counsel for the petitioner requested this Court to dispense with the appearance of the petitioner before the trial Court in the above case. In the absence of any application under Section 205 Cr.P.C, this Court cannot exercise such power as the Magistrate alone has discretion to dispense with the appearance of the petitioner. However, the petitioner is directed to file appropriate application under Section 205 Cr.P.C. before the trial Court and the trial Court is directed to dispose of such application within 15 days from the date of filing such application following the principle in **Bhaskar Industries Ltd** case referred supra.

With the above direction, the criminal petition is disposed of.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

29.11.2017
kvrn

² AIR 2001 SC 3625