

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

TRANSFER CRIMINAL PETITION No.88 of 2017

ORDER:

The present petition, under Section 407 of the Code of Criminal Procedure, 1973 is filed for withdrawal of C.C.No.79 of 2014 from the file of the II-Additional Judicial First Class Magistrate at Machilipatnam, Krishna District, and to make it over/transfer to any local Court in the District Court Complex at Machilipatnam by setting aside the order, dated 27.01.2017, in Tr.Crl.M.P.No.66 of 2016 passed by the learned Sessions Judge, Krishna Division, Machilipatnam.

Heard Sri Kalla Tulasi Durgamba, learned counsel for the petitioners. Since no infirmity is mentioned in the affidavit filed by the petitioners, there appears no merit and, as such, no notice is ordered to the 1st respondent/*de facto* complainant.

Learned counsel for the petitioners would submit that the learned Sessions Judge, Machilipatnam, has not properly appreciated the submissions made on behalf of the petitioners herein and dismissed the application recording an erroneous finding, which he, ought not to have done.

Perused the affidavit filed in support of the present petition and the order sought to be set aside. The sole ground on which the learned Sessions Judge has dismissed the Tr.Crl.M.P.No.66 of 2016 is that only bald allegation has been made in the application, which is not satisfactory or convincing according to him, as acceding to the request

for transfer of a case would cast doubt on the competence and integrity of the Judge from whom the case is sought to be transferred and mere presumptions or possible apprehensions are not sufficient. Of course, the learned Sessions Judge also observed that the foundation of judicial system is based on the independence and impartiality of the Judicial Officers having responsibility to impart justice; if their confidence, impartiality and reputation are shaken, it is bound to affect the very independence of judiciary; and any person, if allowed to make disparaging and derogatory remarks against a Judicial Officer, with impunity, is bound to result in breaking down the majesty of justice.

Even looking at the affidavit averments, there are no convincing reasons warranting withdrawal of the aforesaid Calender Case and transferring it to some other Court locally situated. Absolutely, there is no patent illegality in the order, dated 27.01.2017, in Tr.Crl.M.P.No.66 of 2016 passed by the learned Sessions Judge, Krishna District at Machilipatnam and, therefore, the present petition is liable to be dismissed.

Accordingly, the Transfer Criminal Petition is dismissed at the stage of admission itself.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

A.SHANKAR NARAYANA, J

Date: 17.04.2017

v v