

HON'BLE Dr. JUSTICE SHAMEEM AKTHER
TRANSFER CRIMINAL PETITION No.61 OF 2017

ORDER:

This Transfer Criminal Petition, under Section 407 of Cr.P.C., is filed by the petitioners seeking to withdraw the C.C. No.439 of 2016, pending on the file of the Court of XIV Metropolitan Magistrate at L.B. Nagar, Ranga Reddy District (for short, 'the lower Court'), and transfer the same to the Court of Judicial First Class Magistrate, Ananthapuram.

Heard the learned counsel for the petitioners, learned Public Prosecutor appearing for the 1st respondent-State, and perused the record.

Learned counsel for the petitioners would submit that the petitioners are residing at Ananthapuram; the 1st petitioner (husband) filed F.C.O.P. No.137 of 2016 against the 2nd respondent-*de-facto* complainant (wife), under Section 9 of the Hindu Marriage Act, 1955, before the Judge, Family Court, Ananthapuram, seeking restitution of conjugal rights. C.C. No.439 of 2016, filed by the 2nd respondent-wife against the petitioners, is pending before the lower Court, which is more than 300 K.Ms. away from Ananthapuram. 2nd and 3rd petitioners being parents of the 1st petitioner, aged persons, taking treatment for their age old ailments, traveling all the way from Ananthapuram to Hyderabad is causing very much inconvenience and burdensome for them, hence, filed the instant petition seeking transfer of C.C. No.439 of 2016, pending on the file of the Court of XIV Metropolitan Magistrate at L.B. Nagar, Ranga Reddy District, to the Court of Judicial First Class Magistrate, Ananthapuram.

On the other hand learned Public Prosecutor appearing for the 1st respondent-State would contend that the marriage between the 1st petitioner and 2nd respondent took place at Hyderabad, cause of action also arose at Hyderabad, most of the witnesses belong to Hyderabad and the lower Court at L.B. Nagar has got jurisdiction to try and dispose of C.C. No.439 of 2016, finally sought for dismissal of the petition.

In view of the rival submissions, the point for determination is whether C.C. No.439 of 2016 is liable to be withdrawn from lower Court and transferred to the Court of Judicial First Class Magistrate at Ananthapuram?

POINT: Admittedly, the submissions made by the learned Public Prosecutor are supported by the record. If C.C. No.439 of 2016 is withdrawn and transferred to the Court at Ananthapuram, certainly, it would cause great prejudice to the 2nd respondent-wife and her witnesses. Therefore, there is no justification in the arguments advanced on behalf of the petitioners. The petition is devoid of merits and is liable to be dismissed on this short ground.

In the result, the Transfer Criminal Petition is dismissed. However, liberty is given to the petitioners to file an application before the lower Court seeking to dispense with the personal attendance of 2nd and 3rd petitioners as and when requires.

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

Dr. SHAMEEM AKTHER, J

Date: 23-10-2017.
Dsh

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

63



24102017

TRANSFER CRIMINAL PETITION No.61 OF 2017

Date.23-10-2017

DSH