

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

TRANSFER CRIMINAL PETITION No.2 OF 2017

ORDER:

This transfer criminal petition, under Section 407 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed to withdraw M.C. No.73 of 2016 pending on the file of II Additional Judicial Magistrate of I Class at Tanuku, West Godavari District and transfer the same to the Judge, Family Court, Rajahmundry, East Godavari District, on the sole ground that the petitioner is apprehending life threat with the men of second respondent.

Sri K.B.Ramanna Dora, learned counsel for the petitioner, during hearing, drawn the attention of this court to the earlier order passed in Tr.C.M.P. No.98 of 2016 withdrawing H.M.O.P. No.149 of 2015 pending on the file of Additional Senior Civil Judge, Srikakulam and transferred to Family Court, East Godavari District, instead of Senior Civil Judge, Tanuku, West Godavari District, since the petitioner is facing life threat, and requesting this court to withdraw M.C. No.73 of 2016 pending on the file of II Additional Judicial Magistrate of I Class, Tanuku, West Godavari District to the Judge, Family Court, Rajahmundry.

If really, the petitioner is facing life threat, it is difficult to face fair trial and it amounts to denial fair trial. Though, it is alleged that he is facing life threat, he did not complain the same to the police about the life threat whenever he attended the court in connection with M.C. No.73 of 2016 pending on the file

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of II Additional Judicial Magistrate of I Class, Tanuku, West Godavari, or to the Magistrate concerned before whom the matter is pending.

The other ground is that H.M.O.P. No.149 of 2015 is pending on the file of the Judge, Family Court, Rajahmundry. If suppose the matter is transferred to the Judge, Family Court, the revision lies to the High Court alone, but not to the District Court and thereby the petitioner will loose one opportunity to file a revision before the District Court. Therefore, it is not a ground to withdraw and transfer M.C. No.73 of 2016.

However, I deem it appropriate to direct the learned Magistrate to provide necessary police protection to the petitioner when he attends the court in connection with M.C. No.73 of 2016, on receipt of his written requisition, subject to bearing expenses.

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

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

M. SATYANARAYANA MURTHY, J

Date: 03.01.2017
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