

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

TRANSFER CRIMINAL PETITION No.90 of 2017

ORDER:

Heard learned counsel for petitioners and respondent No.2 and perused the record.

This Transfer Criminal Petition is filed seeking to transfer C.C.No.260 of 2016 on the file of IV Additional Chief Metropolitan Magistrate, Visakhapatnam, to a Court in Peddapuram or Rajahmundry.

Learned counsel for the petitioners would submit that there are two matrimonial cases between petitioner No.1 and respondent No.2 pending in the Courts at Rajahmundry and Peddapuram and it is convenient to the petitioners, if C.C.No.260 of 2016 is transferred as prayed for.

On the other hand, learned counsel for respondent No.2 would submit that in C.C.No.260 of 2016, six witnesses were examined and most of the witnesses belong to Visakhapatnam and its transfer would cause inconvenience to respondent No.2 and other witnesses.

It is appropriate to state that as per the provisions of Section 309 Cr.P.C., in every enquiry or trial, the proceedings shall be continued from day-to-day until all the witnesses in

attendance have been examined, unless the Court finds adjournment of the same beyond the following day to be necessary for reasons to be recorded.

As per the record placed and in view of the submission that most of the witnesses belong to Visakhapatnam, merely because the matrimonial disputes are pending between the parties at Rajahmundry and Peddapuram, it would not entitle the petitioners to seek transfer of C.C.No.260 of 2016 as prayed for. It is also apt to mention that in the said C.C., six witnesses were already examined. In view of the same, there are no justifiable grounds to transfer C.C. as prayed for.

Learned counsel for the petitioners would submit that there are old-aged accused persons.

If that is the case, the petitioners are at liberty to file an application before the Court below to dispense with the appearance of such accused.

With the above observation, the Transfer Criminal Petition is dismissed.

Pending miscellaneous applications, if any, shall stand dismissed in consequence.

Dr. SHAMEEM AKTHER, J

6th OCTOBER, 2017.

kvni