

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER CRIMINAL PETITION NO.243 OF 2017

ORDER:

This Transfer Criminal Petition is filed under Section 407 Cr.P.C. seeking to withdraw M.C.No.467 of 2016 pending on the file of the Addl. Family Judge, IX Addl. Metropolitan Sessions Judge, BBC JHC, Hyderabad, and transfer the same to any other Family Court at Hyderabad for disposal in accordance with law.

2. The main grievance of the petitioner before this Court is that the respondents filed the above M.C. under Section 125 Cr.P.C. seeking maintenance, but the petitioner did not contest the matter and filed an application through G.P.A. to set aside the ex parte order. The petition was returned with the following endorsement:

“Please clarify and state how this Tr.CMP is entertainable as a relief sought in “M.C.467/16 pending before the Addl. Family Court Judge, IX AMSJ, BBC, JHC, Hyderabad, to the file of Judge Family Court, CCC. Hyd.,’

The said above MC pertains to Crl. Procedure Act, even no other case is pending before the Judge Family Court, Hyderabad. Please verify the matter relates to for transferring under Criminal Procedure Act.”

3. The ground urged before this Court is not sufficient to withdraw M.C. pending on the file of the Addl. Family Judge, IX Addl. Metropolitan Sessions Judge, BBC JHC, Hyderabad. If for any reason, the Court took an objection on the application filed by the petitioner, the course left open to the petitioner is to represent the same after complying with the objections and get appropriate order. If the Court did not accept the objection, the petitioner may invite an order on the objection raised by the office of the Judge, Family Court. But, instead of resorting to such procedure, the petitioner straight away approached this

Court under Section 407 Cr.P.C. seeking to withdraw the M.C. and transfer to any other Court. The only apprehension of the petitioner is that if the matter is disposed of, the petitioner will have no opportunity to contest the matter. No doubt, the petitioner will be deprived of his right to contest the matter, but that is not a ground to withdraw the M.C. and transfer the same to one Court to another Court, since he failed to represent the application without complying with the objections raised by the office of Judge, Family Court, Hyderabad. Therefore, I find no grounds to withdraw the M.C. However, the petitioner is permitted to represent the application which he filed along with power of attorney after complying with the objections raised by the office within three days from today and on its representation, the Judge Family Court, IX AMSJ, BBC JHC, Hyderabad, is directed to decide the application before deciding the M.C. and pass appropriate orders in accordance with law.

4. 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

DATED: 13-11-2017.

Note: Issue CC by tomorrow

Hsd