

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

Tr.CRIMINAL PETITION No.222 OF 2017

ORDER:

Heard learned counsel for the petitioner, who is the brother of the deceased and the defacto complainant of Crime No.334 of 2011, dated 14.12.2011, for the offences punishable under Section 302 r/w 149 and 120 B IPC and the police after investigation, having registered the crime against the transfer petition respondents 2 to 16 as A1 to A15, filed the final report, that was taken cognizance by the learned Committal Magistrate and after committal, the Court of Sessions allotted S.C.No.538 of 2012 and the case is pending, schedule is also stated even for commencement of trial. At this stage, the defacto complainant now seeks transfer of the case from the present Presiding Officer of the IV Additional Metropolitan Sessions Court, Hyderabad to any other Metropolitan Sessions Judge of the Unit, even saying the officer is opening his mind saying the accused either to compromise with defacto complainant or manage to get the witnesses to turn hostility to the truth of the prosecution. This allegation, the Court is not believing, much less, when the schedule is already given for conducting trial, to cancel the same or to transfer the case to some other court, but for to say, a judicial restraint is required for a Judicial Officer within his wisdom if at all, there is any little truth in the comment of same is impermissible. However, that cannot

even be attributed as a prejudice to the prosecution or favour to the accused therefrom, much less, to transfer by considering the same as a ground. Needless to say by virtue of the amended Cr.P.C., as per Section 24(8) *proviso*, the defacto complainant if victim, is entitled to seek by filing application for conducting prosecution including by engaging any private advocate either to assist the public prosecutor or in addition to the public prosecutor conducting the prosecution for permitting the private counsel also to put questions and elicit certain facts in favour of prosecution if any.

2. Accordingly and with the above observation, but for any such remedy, there are no grounds to transfer, thereby, this criminal petition is disposed of. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

23.10.2017
SS