

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

TRANSFER CRIMINAL PETITION No.262 OF 2017

ORDER:

Heard Sri Ganeswara Rao Nidumukkala, learned counsel for the petitioner and Sri P. Udaya Bhaskara Rao, learned Standing Counsel-cum-Special Public Prosecutor for the State of Andhra Pradesh.

2. The request made herein is to withdraw the Calendar Case No.2 of 2017 pending on the file of Special Judge for SPE & ACB Cases, Nellore, State of Andhra Pradesh, and transfer the same to the Court of the Special Judge for SPE & ACB Cases, Vijayawada, Krishna District, of the same State, on the ground that the petitioner is now working as Town Planning Building Overseer at Repalle, and, earlier he worked at Nellore, during which time the authority lodging the complaint did arise, and that the case is pending on the file of Special Judge for SPE & ACB Cases, Nellore. The second ground is that he has to travel about 300 km to attend the case. The third ground is that his wife is suffering from Cancer and undergoing treatment in Basavatarakam Cancer Hospital, Hyderabad, and he has to attend to his wife quite frequently, and, therefore, it would be convenient in case the Calendar Case is withdrawn from the file the Special Judge for SPE & ACB Cases, Nellore, and transferred the same to the file of the Special Judge for SPE & ACB Cases, Vijayawada.

3. The learned Standing Counsel-cum-Special Public Prosecutor for ACB Cases would submit that if the petitioner feels inconvenience in attending on a particular occasion or occasions he may move the Court an application under Section 317 Cr.P.C., and, normally, such petitions are not rejected.

4. The petitioner has filed Photostat copies of the treatment given at Basavatarakam Indo American Cancer Hospital and Research Institute, pertaining to Smt. T. Vijaya Laksmhi, who is his wife, but, the ground that the distance the petitioner has travel is arduous cannot be brought within the fold of Section 407 of the Code of Criminal Procedure, 1973, when seen that the trap took place at Nellore, and the prime witnesses hailing from Nellore proper. So, inconvenience to the witnesses is also to be balanced unless there is unusual difficulty.

5. There is no question of law on unusual difficulty i.e., likely to arise or to bring it within Section 407 (1) (c) of Cr.P.C. even.

6. Therefore, advising the petitioner to avail opportunity under the provisions of the Code for exemption of his appearance under Section 317 of Cr.P.C. whenever he feels difficulty or could not present himself on account of taking his wife to the hospital, and, in which case the Court concerned may leniently deal with the said application. The present Transfer Criminal Petition is dismissed except to the extent indicated in the above.

As a sequel thereto, miscellaneous petitions, if any, pending in the Transfer Criminal Petition shall stand closed.

A. SHANKAR NARAYANA, J

December 11, 2017.

gbs

