

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER CRIMINAL PETITION No. 272 OF 2017

ORDER:

This petition is filed under Section 407 of the Code of Criminal Procedure to withdraw D.V.C.No. 31 of 2017 on the file of the Court of Special Judicial I Class Magistrate for trial of Prohibition and Excise Offences at Eluru, West Godavari District (for short, 'the Court below') and transfer the same to the file of the Court at Chirala, Prakasam District, on the ground that petitioner No. 1 was blessed with a male child, now aged 11 months, and that they are residents of Chirala, Prakasam District, and that therefore it is difficult for them to appear before the Court below.

2. The proceedings in D.V.C. are purely civil in nature though jurisdiction is conferred on magistrate and the petitioners are not required to appear before the Court on every date of adjournment. This Court in ***Giduthuri Kesari Kumar and others Vs. State of Telangana and others***¹ held that magistrate is competent to pass *ex parte* order and set aside the same like a civil Court and shall not insist appearance of the parties on every date of adjournment. In view of the law declared by this Court, the inconvenience expressed by the petitioners is not a ground to consider the request of the petitioners. Consequently, the petition is liable to be dismissed.

3. The criminal petition is accordingly dismissed. However, the Court below is directed to strictly follow the guidelines issued in ***Giduthuri Kesari Kumar*** (*supra*).

¹ 2015 (2) ALD (Crl.) 470 (AP)

4. Pending miscellaneous petitions, if any, in this criminal petition shall stand dismissed in consequence.

Date: 21-12-2017.

M.SATYANARAYANA MURTHY, J.

JSK

