

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER CRIMINAL PETITION No. 14 OF 2018

ORDER:

This petition is filed under Section 407 of Cr.P.C. to withdraw C.C.No. 324 of 2016 pending on the file of the Court of Additional Judicial Magistrate of I Class, Rayachoty (for short, 'the Court below'), and transfer the same to the file of the Court of Judicial Magistrate of I Class, Tirupati, on the sole ground that the petitioner is aged 78 years and underwent Stentto Diagonal and RCA.

2. At the hearing, learned counsel for the petitioner has submitted that the distance between Rayachoty and the place of residence of the petitioner is more than 170 kilometres and that the doctors advised the petitioner not to undertake journey for such distance without any medical assistance, as he is suffering from cardiac problem. Learned counsel has drawn the attention of this Court to medical certificate dated 15-01-2018 issued by Amrutha Heart Care Centre in support of his submission that the petitioner is suffering from serious ailments and not in a position to undertake journey covering a distance of 170 kilometres.

3. The offence allegedly committed by the petitioner is punishable under Section 138 of N.I. Act which is quasi civil in nature but the matter is being tried by Magistrate and conviction leads to sentence of imprisonment and fine also, including compensation. Therefore, Courts are following the procedure under the Code of Criminal Procedure to try the cases under Section 138 of N.I. Act and the petitioner is required to appear before the Court below on every date of adjournment. When the petitioner is suffering from such serious cardiac problem, he can file an application under Section 205 of Cr.P.C. before the Court below to dispense with his appearance. If, for any reason, C.C.No. 324 of 2016 on

the file of the Court below is withdrawn and transferred to the Court at Tirupati, respondent No. 1, who is aged 63 years, has to undertake the same journey.

4. In the light of the above, to avoid inconvenience to both parties and without diverting the jurisdiction that vested on the Court below, I deem it appropriate to permit the petitioner to file an application under Section 205 of Cr.P.C. and on filing such application, the Court below is directed to dispose of the same in accordance with law.

5. With the above direction, the petition is disposed of at the stage of admission. Pending miscellaneous petitions, if any, shall stand closed in consequence.

04-07-2018.
JSK

M.SATYANARAYANA MURTHY, J.

