

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Transfer Criminal Petition No.28 of 2018

ORDER:

This Transfer Criminal Petition is filed under Section 407 Cr.P.C. by the petitioners/A1 and A3 in C.C.No.456 of 2016 seeking transfer of C.C.No.456 of 2016 from the file of XXI Metropolitan Magistrate, Medchal, Cyberabad to the Court of VI Additional Chief Metropolitan Magistrate, Hyderabad to be tried along with C.C.No.7 of 2014.

2) The 1st respondent herein is the defacto complainant in C.C.No.456 of 2016. He filed a private complaint with the allegations that himself and Gurmeet Singh have constituted into a partnership firm—Eastern Pavilion to deal with purchase and development of lands and the complainant entered into an agreement of sale in an extent of Ac.16.26 gts. and when the vendors failed to execute sale deed, he filed suit—O.S.No.135 of 2006 on the file of II Additional District Judge, R.R.District which was ended in compromise and thereafter, the vendors executed sale deed for Ac.10.26 gts. in favour of complainant. Whiles, on 10.06.2007 accused Nos.2 and 3 have criminally trespassed into the said land and when the said action was questioned by the complainant and his men, they informed that A1 in the capacity of Managing Director of partnership firm executed agreement to sell-cum-GPA agreement dated 21.04.2007 separately entered in their favour. A1 has no power to execute such document. The complainant's plea is that all the accused conspired together and created sham and collusive document to cause

loss to the complainant. On such and other allegations he filed the complaint which was referred to the police, Shamirpet PS and the same was registered as Cr.No.165 of 2007 and after investigation the police filed final report noting that accusations are civil in nature and no case is made out against the accused. Thereupon, the complainant filed protest petition and the same was enquired and case was taken into file and now C.C.No.456 of 2016 is pending on the file of XXI Metropolitan Magistrate, Medchal, Cyberabad.

3) C.C.No.7 of 2014 is concerned, accused No.1 in C.C.No.456 of 2016 is the complainant and the complainant therein (CC.No.456/2016) is the accused. The allegations in brief are that the complainant is a NRI residing in USA and a practicing doctor and the accused is a classmate of his son and he induced the complainant to enter into real estate business and the complainant believing his words, entered into partnership business with accused and four others and later accused cheated him. C.C.No.7 of 2014 is pending on the file of VI Additional Chief Metropolitan Magistrate, Hyderabad.

4) Heard arguments of Sri Allam Ramesh, learned counsel for petitioners and Sri Mir Masood Khan, learned counsel for 1st respondent.

5) The submission of learned counsel for petitioners is that both cases are having common facts and hence they are required to be disposed of by the same Court so as to have a comprehensive view over the real dispute. Hence, C.C.No.456 of 2016 may be transferred to other Court.

6) On other hand, learned counsel for 1st respondent opposed the petition on the ground that C.C.No.456 of 2016 is at the stage of 313 Cr.P.C. examination whereas C.C.No.7 of 2014 is still in nascent stage and if both the cases are tried together, C.C.No.456 of 2016 will be delayed.

7) I have given my anxious consideration to the facts in both the cases. There are some overlapping facts in the allegations and counter allegations in both the cases. Therefore, as rightly submitted by learned counsel for petitioners, both the cases need to be tried by the same Court so as to have the comprehensive view on the real controversy involved in both the matters.

8) In the result, this Transfer Criminal Petition is allowed and C.C.No.456 of 2016 is transferred from the file of XXI Metropolitan Magistrate, Medchal, Cyberabad to the file of VI Additional Chief Metropolitan Magistrate, Hyderabad to be tried along with C.C.No.7 of 2014 as per law.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 21.08.2018
Murthy