

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Criminal Petition No.30 of 2018

ORDER:

This Transfer Criminal Petition, under Section 407 of the Code of Criminal Procedure, 1973, is filed by the petitioners/A.1 to A.4, requesting to withdraw C.C.No.992 of 2016 from the Court of I Additional Judicial Magistrate of First Class, Khammam, and transfer the same to the Court of Additional Judicial Magistrate of First Class, Nellore, SPSR Nellore District, for trial and disposal in accordance with law.

2. Heard the learned counsel for the petitioners/accused Nos.1 to 4, learned Assistant Public Prosecutor representing the 1st respondent-State and perused the record.

3. The learned counsel for the petitioners/accused Nos.1 to 4 would submit that the parties are residing at Nellore. The petitioner/A.1 has to undergo heart transplantation. Some of the petitioners are aged persons. There is also an O.P. filed for Restitution of Conjugal Rights at Nellore, in F.C.O.P.No.23 of 2016 on the file of the Family Court, Nellore, and ultimately prayed to allow the application.

4. The learned Assistant Public Prosecutor opposed the relief sought by the petitioners/accused Nos.1 to 4.

5. As seen from the material placed on record, the cause of action arose at Khammam and the Court of I Additional Judicial Magistrate of First Class, Khammam, has jurisdiction to try and

dispose of C.C.No.992 of 2016. The petitioners/accused Nos.1 to 4 have filed material to show that the petitioner/accused No.1 has to undergo heart transplantation. Admittedly, the petitioner/accused No.1 is a very young man. There is substance in the application with regard to dispensation of his personal attendance before the Court at Khammam. To that extent, this Criminal Petition can be considered in favour of the petitioner/accused No.1. As far as the other petitioners/accused Nos.2 to 4 are concerned, admittedly, they are residing at Nellore. It causes hardship now and then to them to travel from Nellore to Khammam to attend the proceedings in C.C.No.992 of 2016. Under these circumstances, this Court deems it appropriate to dispose of this Criminal Petition with appropriate directions.

6. As far as the petitioner/accused No.1 is concerned, his personal appearance before the Court at Khammam on each and every date of adjournment is dispensed with; and, his advocate on record, as authorised by him, can proceed with the case. However, as and when his personal appearance before the Court is necessary, the Court at Khammam may order his personal appearance.

7. As far as petitioners/accused Nos.2 to 4 are concerned, as and when it is difficult to them to attend the Court at Khammam or they are prevented from any justifiable cause for doing so, they are at liberty to file appropriate application before the Court at Khammam and in the event of the petitioners/accused Nos.2

to 4 filing any such application, the learned Magistrate may consider the said applications in accordance with law.

8. As far as the Transfer Criminal Petition is concerned, there are no justifiable grounds to allow the petition.

9. With the above observations/directions, this Transfer Criminal Petition is disposed of.

Pending Miscellaneous Petitions, if any, shall stand closed.

07th February, 2018
Bvv

Dr. SHAMEEM AKTHER, J

