

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Transfer Criminal Petition No.234 of 2011

ORDER:

This Transfer Criminal Petition is filed by the petitioner/*defacto* complainant under Section 407 Cr.P.C seeking to transfer CrI.A.No.130 of 2009 from the file of VI Additional Sessions Judge, Warangal at Mahabubabad, to the High Court for disposal along with CrI.R.C.No.1620 of 2009 filed by the *defacto* complainant.

2) Heard arguments of Sri A.Prabhakar Rao, learned counsel for petitioner, Sri Ramesh Babu Peddapalli, learned counsel for 2nd respondent and learned Additional Public Prosecutor for the State.

3) In S.C.No.390 of 2002, the accused was convicted for the offences under Sections 363 and 376 r/w 511 IPC by the Assistant Sessions Judge, Warangal at Mahabubabad, as per his judgment dated 08.05.2009. Aggrieved, the accused preferred CrI.A.No.130 of 2009 before the VI Additional Sessions Judge, Warangal at Mahabubabad and the same is pending now. While-so, the *defacto* complainant challenging the quantum of sentence, preferred CrI.R.C.No.1620 of 2009 before this Court and the same is also pending.

Hence the instant Tr.CrI.P.

4) Learned counsel for petitioner would submit that since both the matters arise out of the judgment in S.C.No.390 of 2002, it is apposite that both should be heard and disposed of by the High Court to avoid conflicting judgments. He would thus pray that the petition may be allowed.

5) Per contra, learned counsel for 2nd respondent while opposing the petition would submit that in case the appeal is transferred from the Court of VI Additional Sessions Judge, Warangal, at Mahabubabad to High Court, he would lose the right of carrying the matter in Crl.R.C. to High Court should the matter decided against him by the VI Additional Sessions Judge, Warangal at Mahabubabad. He thus prayed to dismiss the petition.

6) It is true that in case the Crl.A.No.130 of 2009 is transferred from the Court of VI Additional Sessions Judge, Warangal at Mahabubabad, to High Court, the 2nd respondent/accused would lose the right of preferring Crl.R.C before High Court, incase the Criminal Appeal is decided against him by the lower Appellate Court. However, it should be noted that as rightly argued by learned counsel for petitioner, both the matters arise out of the same judgment in S.C.No.390/2002. In that view, both the matters should be heard and disposed of by the same Court to avoid conflicting judgments. Since the Crl.R.C.No.1620 of 2009 cannot be transferred from this Court to the VI Additional Sessions Judge, Warangal at Mahabubabad, there is no other go except transferring the Crl.A.No.130 of 2009 to this Court.

7) In the result, this Transfer Criminal Petition is allowed and the Crl.A.No.130 of 2009 is transferred from the file of VI Additional Sessions Judge, Warangal at Mahabubabad to this Court for disposal along with Crl.R.C.No.1620 of 2009.

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

U.DURGA PRASAD RAO, J

Date: 25.06.2018

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