

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR. CRIMINAL PETITION No.112 of 2018

ORDER:

This Transfer Criminal Petition under Section 407 Cr.P.C. is filed to withdraw Criminal Appeal No.415 of 2016 pending on the file of III Additional Metropolitan Sessions Judge at Nampally, Hyderabad, and transfer the same to IV Additional District and Sessions Judge at Visakhapatnam, to hear along with O.SNo.269 of 2014 pending on its file.

It is alleged in the petition that a complaint was filed under Section 138 of NI Act and it was the subject matter of C.C.No.107 of 2014 and the X Special Magistrate, Hyderabad, found the accused in C.C.No.107 of 2014 guilty after full fledged trial. Aggrieved by the Calender and Judgment, the Accused in C.C.No.107 of 2014 preferred Criminal Appeal No.415 of 2016, it is pending before III Additional Metropolitan Sessions Judge at Nampally. The respondents herein also filed O.SNo.269 of 2014 before IV Additional District Judge, Visakahapatnam, for recovery of Rs.32,26,933/- and it is pending according to the petitioners and therefore, they sought withdrawal of Criminal Appeal pending on the file of III Additional Metropolitan Sessions Judge at Nampally, Hyderabad and transfer the same to IV Additional District Judge, Visakhapatnam.

Learned counsel for the respondents submits that the suit in O.SNo.269 of 2014 was already decreed on 12.11.2015 and a decree was passed in favour of the respondent and thereby hearing of both Criminal Appeal and the Civil suit does not arise and at this stage the Court cannot exercise power under Section 407 Cr.P.C. to withdraw Criminal Appeal and transfer the same to III Additional Metropolitan Sessions Judge at Nampally, Hyderabad.

No representation on behalf of the petitioners.

A copy of the Decree and Judgment in O.S.No.269 of 2014 passed by IV Additional District Judge, Visakhapatnam, is placed on record.

The main reason for seeking transfer is pendency of civil suit in O.S.No.269 of 2014 on the file of IV Additional District Judge, Visakhapatnam, to enable the Court to hear both Criminal Appeal and the suit together, but the suit was disposed of on 12.11.2015 i.e., much prior to filing of this petition, and the said decree was not set aside till today. Therefore, the question of hearing both the cases by the same Court does not arise. Hence, this petition is devoid of merits and it is liable to be dismissed.

In the result, this Transfer Criminal Petition is dismissed.

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

M. SATYANARAYANA MURTHY, J

Dt: 04-07-2018
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