

SMT JUSTICE T. RAJANI

TRANSFER CRIMINAL PETITION No.49 of 2017

ORDER:

The transfer criminal petition is filed seeking to withdraw MC.No.19 of 2016 from the file of the Special Judicial First Class Magistrate for Excise, Eluru, West Godavari and for transfer of the same to any other Court within the jurisdiction of Ranga Reddy District.

2. Heard the counsel for the petitioner and the learned Public Prosecutor, appearing for the first respondent. None appears for the second respondent in spite of notice.

3. The transfer is sought for on the ground that the petitioner has a threat at the Court in Eluru and in order to substantiate his contentions, he relies on the order of this Court in CRLP.No.9896 of 2016, wherein it was recorded that the Public Prosecutor, on instructions, submitted that he received a report but have not registered the crime till date. The order is dated 18.07.2016.

4. The counsel for the petitioner contends that the FIR shows that it was registered on 12.07.2016, which means that the respondent could influence the police and get an antedate registration.

5. The learned Public Prosecutor, in answer to the said contention, takes the Court to the endorsement of the Court, which is made on the FIR that it was sent to Court on 13.07.2016 at 10.30 AM.

6. Hence, the said endorsement, which is made on the document, which is furnished by the petitioner counsel itself, would dispel the apprehension of the petitioner that the proceedings would be manipulated at the behest of the respondent.

7. The learned Public Prosecutor clarifies that the petition seeking for anticipatory bail, in which the said order was passed, was filed on 05.07.2016 and hence, as on that date, since no crime was registered, the public prosecutor might have been under the impression that the crime was not registered and that the same might have been the representation made before the Court, which can be considered as erroneous.

8. Hence, when the above submissions would clarify the apprehensions and misfounded opinion of the counsel for the petitioner, there can be no reason to transfer the case as sought for, as no apprehension is made out by the petitioner counsel.

The transfer criminal petition is dismissed. However, considering the request of the counsel for the petitioner to give a direction to the Court below not to insist on the presence of the petitioner, the Court below is directed not to insist on the presence of the petitioner unless it is necessary for the proceedings. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

T. RAJANI, J

January 5, 2018
DSK