

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER CRIMINAL PETITION No. 129 OF 2018

ORDER:

This petition is filed under Section 407 of Cr.P.C. to withdraw S.C.No. 233 of 2017 pending on the file of the Court of Assistant Sessions Judge, Bhimavaram (for short, 'the Court below'), and transfer the same to any other competent Court for adjudication on the following three grounds, namely; (1) the Assistant Sessions Judge used to say in open Court that when this Court directed him to allow the petition, he releases the passport; (2) before passing the order, the Assistant Sessions Judge had chitchat with the counsel appearing for the accused and (3) when the case is committed to Sessions Division, it has been numbered in a hurried manner without giving sessions case numbers to the earlier primary registered cases.

2. The first ground raised by learned counsel for the petitioner, that this Court directed the Assistant Sessions Judge to allow the petition and the petitioner herein cannot object it, is not a ground for the reason that whatever order passed by this Court, the Court below is bound to implement the same in accordance with law and mere making a comment across the bench over it is not a ground and there is no place for suspicion in such case. The second ground is no more a ground for seeking transfer since when the presiding officer chitchats with advocates, question of creating any suspicion does not arise. The third ground that the present case has been given sessions case number even without assigning numbers to the earlier primary registered cases is without any basis since Magistrates use to commit primary registered cases to Sessions Division i.e. Principal District Judge by following the procedure under Sections 207 and 209 of Cr.P.C. and on such committal, the

Principal District Judge assigns sessions case numbers and makes over the sessions cases to the concerned Sessions Courts including Assistant Sessions Courts having jurisdiction over the area and therefore on this ground, pending sessions case cannot be withdrawn and transferred.

3. In the light of the above, the transfer criminal petition fails and the same is liable to be dismissed.

4. The criminal petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall stand dismissed in consequence.

04-07-2018.
JSK

M.SATYANARAYANA MURTHY, J.

