

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.CRL.P.No.128 OF 2018

ORDER:

This transfer criminal petition is filed under Section 407 Cr.P.C with a request to withdraw D.V.C.No.353 of 2017 pending on the file of I Additional Chief Metropolitan Magistrate, Vijayawada, filed under Section 12 of Protection of Women from Domestic Violence Act and transfer the same to any competent Court at Guntur.

The main ground urged before this Court is that the petitioners are staying at Buchireddypalem SPSR Nellore District and whenever the petitioners are attending the Court at Vijayawada in connection with DVC, the 2nd respondent's men are threatening them with dire consequences and thereby the petitioners are apprehending danger to their life and prayed to withdraw and transfer DVC to the competent Court at Guntur.

Learned Assistant Public Prosecutor opposed the petition on the ground that the petitioners are not required to appear before the Court.

The petition filed under Section 12 of the Protection of Women from the Domestic Violence (for short 'the Act') by the 2nd respondent before the I Additional Chief Metropolitan Magistrate, Vijayawada is pending for the last one year. The difficulty expressed by the petitioners to appear before the Court is that they are receiving threats from the supporters of the 2nd respondent. The appearance of the petitioners is not necessary in view of the law declared by this Court in ***Giduthuri Kesari Kumar and Ors. v. State of Telangana and Ors.***¹.

The Court can exercise power only in cases where there was reasonable apprehension that no fair trial takes place in the Court where the case is pending. Such apprehension must be supported by material, in the absence of any material the Court cannot exercise power under Section

¹ 2015 (2) ALD (CrL.) 470 (AP)

407 Cr.P.C. on mere allegation to divert the jurisdiction in the petition is filed under Section 407 Cr.P.C. When the appearance of the petitioners is not required before the Court, the question of insisting them to appear before the Court does not arise and thereby the apprehension is misplaced. Therefore, the I Additional Chief Metropolitan Magistrate, Vijayawada is directed to follow the guidelines issued by this Court in ***Giduthuri Kesari Kumar and other's*** case referred supra.

With the above observation, the criminal petition is disposed of.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

18.06.2018
kvrm

M.SATYANARAYANA MURTHY,J

