

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.Crl.P.No. 175 of 2018

ORDER

This petition under Section 407 of Cr.P.C., is filed to withdraw Crl.A.No.29 of 2017 pending on the file of VIII Additional District and Sessions Judge, Chittoor and transfer the same to any competent Court at Ananthapur.

2. The petitioner herein was examined as P.W.1 before the trial Court and after completion of trial, the trial Court found respondents 1 to 5 not guilty for the offences under Sections 498-A, 420, 323 IPC and under Sections 3, 5 and 6 of Dowry Prohibition Act and accordingly acquitted them.

3. The only ground urged in the present petition is that the petitioner has no means to maintain herself and is facing lot of difficulty to appear before the appellate Court at Chittoor and she requested to withdraw and transfer the said appeal.

4. During hearing, learned counsel for the petitioner contended that the prosecution was conducted before the trial Court where she did not face any inconvenience in attending the Court as a witness, but now on account of finding respondents 1 to 5 not guilty and acquitted for the aforesaid offences, she filed the appeal in the capacity of the de-facto complainant before the Sessions Court and therefore, it is difficult task for her to appear before the Court at Chittoor as she is a resident of Ananthapur District and apart from that respondents 1 to 5 are also residents of Ananthapur District and

therefore, no prejudice will be caused if the appeal is withdrawn and transferred to any competent Court at Ananthapur.

5. Undoubtedly, C.C.No.753 of 2013 was ended in acquittal vide judgment dated 17.03.2016 finding respondents 1 to 5 not guilty of the offences referred above. The petitioner gave a written report to the police, based on which, the police registered the case and filed charge sheet after collecting necessary evidence and finding that there is a material to proceed against the accused though petitioner and respondents are residents of Ananthapur District, for reasons best known to her. When the said CC was pending before the trial Court for three years, the petitioner appeared as a witness and examined as P.W.1 before the trial Court. But she did not experience any inconvenience during pendency of C.C., since the prosecution was conducted by the State. However, when the appeal is pending before the Sessions Court against the acquittal, the presence of petitioner on every date of adjournment may not be necessary and her counsel can represent her. Therefore, the inconvenience due to lack of funds for appearance of petitioner before the appellate Court is not a ground to exercise power under Section 407 of Cr.P.C., to withdraw and transfer the appeal from the file of VIII Additional District and Sessions Judge, Chittoor, to any Sessions Court at Ananthapur. However, the Sessions Judge is requested not to insist the appearance of petitioner on every date of adjournment as long as her counsel representing her in the criminal appeal, except when her personal appearance is required.

6. With the above direction, the Transfer Criminal Petition is disposed of, at the stage of admission. Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

16th August, 2018

sj

