

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER CRIMINAL PETITION No. 209 OF 2018

ORDER:

This petition under Section 407 of Cr.P.C. is filed by the petitioner-*de facto* complainant to transfer C.C.No. 304 of 2011 pending on the file of the Court of Judicial I Class Magistrate at Sircilla (for short, 'the Court below') to the Court of Judicial I Class Magistrate at Kothagudem (for short, 'the Court at Kothagudem') on the grounds that her husband-respondent No. 2 is a practicing doctor and he regularly appears before the Court below to give evidence and therefore there is every possibility to influence the prosecution; that she and other witnesses are apprehending endanger in the hands of the respondents-accused to appear before the Court below and that maintenance case filed by her is pending on the file of the Court at Kothagudem.

2. As seen from the material on record, there is no dispute with regard to the profession of respondent No. 2. By his profession, respondent No. 2 has to appear before the Court below as a witness whenever medical evidence is required to be adduced. Merely because respondent No. 2 is appearing before the Court below, the allegation that he is influencing the prosecution is without any substance. Therefore, on the ground that respondent No. 2 is influencing the prosecution, C.C.No. 304 of 2011 cannot be withdrawn and transferred.

3. The second ground urged before this Court is that the petitioner and other prosecution witnesses are apprehending endanger in the hands of the respondents-accused to appear before the Court below. If necessary protection is provided to the petitioner and other prosecution witnesses whenever they attend the Court below, it would suffice to wipeout such apprehension.

4. The third ground is that maintenance case filed by the petitioner is pending on the file of the Court at Kothagudem. On the ground of pendency of other case, the present case cannot be withdrawn and transferred since respondent No. 2 is a practicing doctor at Sircilla and he has to attend several urgent cases and if C.C.No. 304 of 2011 on the file of the Court below is transferred to the Court at Kothagudem, he has to forego his working hours and on the other hand, the petitioner is only a private teacher and she can appear before the Court below by availing leave. Therefore, the third ground is also no more a ground to transfer C.C.No. 304 of 2011.

5. For the aforementioned reasons, I find no ground to withdraw and transfer C.C.No. 304 of 2011 on the file of the Court below exercising power under Section 407 of Cr.P.C. and the petition is liable to be dismissed. However, the Court below is directed to provide necessary protection to the petitioner and other prosecution witnesses proposed to be examined whenever they attend before it.

6. With the above direction, the transfer criminal petition is dismissed. Pending miscellaneous petitions, if any, shall stand dismissed in consequence.

Date: 28-09-2018.

JSK

M.SATYANARAYANA MURTHY, J.