

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

Tr.Criminal Petition Nos.246, 251,253, 254, 255, 256
257 and 297 of 2018

COMMON ORDER :

These Criminal Petitions are filed by the self-same petitioners/ accused persons in Calander Cases vide 1) C.C.No.4 of 2017 on the file of the Prl.Sessions Judge-cum-Spl.Court (for short, 'the PDJ') under A.P. Protection of Depositors of Financial Establishment Act, 1999(for short 'the APPDFE Act') Gajuwaka, Visakhapatnam in Tr.Crl.P.No.246 of 2018, 2) C.C.No.6 of 2018 on the file of the PDJ, Vijayawada in Tr.Crl.P.No.251 of 2018, 3) C.C.No.5 of 2018 on the file of the PDJ, Kurnool in Tr.Crl.P.No.297 of 2018 and the other cases 4) C.C.No.4 of 2016 in Tr.Crl.P.No.253 of 2018, 5) C.C.No.5 of 2016 in Tr.Crl.P.No.254 of 2018, 6) C.C.No.3 of 2016 in Tr.Crl.P.No.255 of 2018, 7) C.C.No.2 of 2016 in Tr.Crl.P.No.256 of 2018 and 8) C.C.No.6 of 2016 in Tr.Crl.P.No.257 of 2018 on the file of the PDJ, Ongole, Prakasam District, seeking to transfer the cases supra to the PDJ, Guntur, to try along with similar cases pending against the petitioners/accused herein. In all the cases cognizance is taken for the self-same offences punishable u/sec.5 r/w 3 of the APPDFE Act and Sections 120-B, 406, 420 and 212 IPC and Sections 4 to 6 r/w 2© of A.P.Prize Chit and Money Circulation (Banning) Act, 1978.

1. C.C.No.4 of 2017 in Tr.Crl.P.No.246 of 2018 is outcome of Cr.No.368 of 2012 of SHO, Gajuwaka Police Station, Visakhapatnam city.

2. C.C.No.6 of 2018 in Tr.Crl.P.No.251 of 2018 is outcome of Cr.No.583 of 2012 of the SHO, Machavaram Police Station, Vijayawada city.

3. C.C.No.5 of 2018 in Tr.Crl.P.No.297 of 2018 outcome of Cr.No.104 of 2013 of the SHO, Adoni town Police Station, Kurnool.

4.C.C.No.4 of 2016 in Tr.Crl.P.No.253 of 2018 outcome of Cr.No.106 of 2012 of the SHO, Kandukur Rural Police Station, Ongole.

5.C.C.No.5 of 2016 in Tr.CrI.P.No.254 of 2018 outcome of Cr.No.220 of 2012 of the SHO, Cheerala Police Station.

6. C.C.No.3 of 2016 in Tr.CrI.P.No.255 of 2018 outcome of Cr.No.60 of 2012 of the SHO, Valivetivaripalem Police Station.

7. C.C.No.2 of 2016 in Tr.CrI.P.No.256 of 2018 outcome of Cr.No.154 of 2012 of the SHO, Kandukur Police Station and

8.C.C.No.6 of 2016 in Tr.CrI.P.No.257 of 2018 outcome of Cr.No.74 of 2013 of the SHO, Tripuranthakam Police Station.

2. The learned counsel for the petitioners mainly relying upon the expression of the Apex Court in W.P.(CrI) No.51 of 2017 moved by the petitioners vide order dt.01.05.2017 which reads *“The investigating authorities in the States, other than the Andhra Pradesh, may complete investigation as far as possible within a period of three months. Once investigation is complete and charge sheet is filed, all the cases in the States other than Andhra Pradesh shall stand transferred to the concerned Court at Guntur, Andhra Pradesh, where first F.I.R. has been filed. The said Court may permit evidence of outstation witnesses to be recorded by video conferencing, if any such permission is sought and if trial is not hampered thereby.”*

3. In fact, perusal of the order clearly speaks and confined only to crimes registered outside the Andhra Pradesh State, by transfer to the State of Andhra Pradesh and for convenience to only one Court that is the Special Judge, at Guntur. It is not even the case that all the cases come out from the same prosecution to follow the observations of the Apex Court to transfer the other cases pending before the other Courts other than at Guntur to transfer to the PDJ, Guntur.

4. Once it is the outcome of different complaints and different allegations though against the same accused persons in relation to the same modus operandi when not covered by same prosecution and even from the

provisions of CrPC where the first report given in registration of the crime is not criteria, merely because the Apex Court in its inherent power exercised the discretion but the same does not mean that this Court is also bound to exercise, that too when the witnesses belongs to different places have to face difficulty to attend the Court otherwise not chosen video conference to transfer from different places. Thereby the convenience of the witnesses also cannot be ignored. Once such is the case, as the distance between the PDJ, Ongole, Prakasham district to the PDJ, Guntur, is about 150kms which can be considered to transfer the cases pending before the PDJ, Ongole, to the PDJ, Guntur as prayed for. Likewise the case pending before the MSJ, Vijayawada which is at the distance of merely 50kms, can also be considered to the PDJ, Guntur but so far as the cases pending at Visakhapatnam and Kurnool which are also about 350kms, away to Guntur cannot be considered to transfer to Guntur.

5. Accordingly, these Tr.Crl.P.Nos.**251,253, 254, 255, 256 and 257 of 2018** are allowed by transferring the cases pending before the PDJ, Ongole and MSJ, Vijayawada to PDJ, Guntur as prayed for, for simultaneous trial and the Tr.Crl.P.Nos.246 and 297 of 2018 are dismissed by refusing transfer of the cases pending at Visakhapatnam (C.C.No.4 of 2017) and Kurnool (C.C.No.5 of 2018) to PDJ, Guntur. It is one of the contentions that the petitioners at the time of hearing charges can invoke similar cases of maximum 3 to be taken up in one Court if at all in concession to the accused from the provision that is not available here. Pending miscellaneous petitions, in these Transfer Criminal Petitions, if any, shall stand closed.

Date:24.12.2018
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Dr. B.SIVA SANKARA RAO J,