

HON'BLE JUSTICE G. SRI DEVI

TRANSFER CRIMINAL PETITION No.74 of 2019

ORDER :

This Transfer Criminal Petition under Section 407 of Cr.P.C. is filed by the petitioners/A.1 to A.11 seeking to withdraw C.C.No.402 of 2008 from the file of the learned Additional Judicial First Class Magistrate, Jangaon, Warangal District, and transfer the same to any other competent Judicial First Class Magistrate Court at Warangal or any other competent Court in Warangal District and consequently sought a direction to set aside the order dt.18.07.2019 in Tr.Crl.M.P.No.366 of 2019 passed by the learned Principal Sessions Judge, Warangal, dismissing the application filed by the petitioners seeking transfer of the above C.C.No.402 of 2008.

The case of the prosecution is that the petitioners/Accused having agreed to sell the land to the complainant and received a sum of Rs.3,40,000/- towards part of sale consideration from him and the complainant has been cultivating the said land, postponing registration of the said land in the name of the complainant for one reason or other by receiving the balance sale consideration. Subsequently, keeping in mind increase of the value of the land, the petitioners hatched a plan to get the complainant vacate the said land and accordingly, the petitioners criminally trespassed into the said land, damaged the motor

pipes and committed theft of submersible motor got fixed by the complainant from the well. Basing on the complaint lodged by the complainant, the police registered Crime No.37 of 2008 for the offences punishable under Sections 447, 427, 379 r/w. Section 34 of IPC and after investigation the police filed charge sheet and the case is numbered as C.C.No.402 of 2008.

Heard Dr. Venkat Reddy Donthi Reddy, learned counsel for the petitioners/A.1 to A.11 and the learned Additional Public Prosecutor appearing for respondent No.1 – State. Despite service of notice, respondent No.2/complainant refused to take notice and hence notice is deemed to have been served on respondent No.2 and there is no representation on his behalf.

The only ground raised by the learned counsel for the petitioners for transfer of the above C.C.No.402 of 2008 is that the learned Additional Judicial First Class Magistrate, Jangaon, has not considered the application vide CrI.M.P.No.223 of 2019 filed by the petitioners under Section 311 of Cr.P.C. to recall PW.1 for marking of documents and instead of disposing of the said application, the learned trial Court proceeded with the trial and recorded the evidence of prosecution witnesses and examined Investigating Officer as PW.8 though the petitioners have objected for the same and partly recorded the cross-examination. It is also contended that though the junior

counsel has deferred the cross-examination as the mother of his senior counsel expired on 13.03.2019 and the senior counsel attended the death ceremony of his mother, the learned trial Court did not consider the same and closed the cross-examination. It is further contended that the trial Court has prejudiced and inspite of the request made by the learned counsel for the petitioners/Accused and though the petitioners have shown sufficient cause for deferring the cross-examination, the trial Court in a discriminatory manner closed the cross-examination and hence the petitioners apprehend that they may not get substantial justice if the above C.C.No.402 of 2008 is heard and disposed of by the learned trial Court Judge. It is contended that even the learned Principal Sessions Judge, Warangal, also without properly appreciating the facts and circumstances, erroneously dismissed the application filed by the petitioners vide order dt.18.07.2019 in Tr.CrI.M.P.No.366 of 2019.

On the other hand, the learned Additional Public Prosecutor opposed the relief sought in the above Transfer Criminal Petition.

It is to be noted that non-consideration of the application vide CrI.M.P.No.223 of 2019 filed by the petitioners under Section 311 of Cr.P.C. to recall PW.1 for marking of documents and closing cross-examination of witness are matters of record and mere apprehension that the learned trial Court Judge has been prejudiced and hence the

petitioners may not get substantial justice is not a tenable or justifiable ground to transfer C.C.No.402 of 2008 from the Court of Additional Judicial First Class Magistrate, Jangaon, to any other competent Court in Warangal. Further, the learned Principal Sessions Judge, Warangal, also rightly dismissed Tr.Crl.M.P.No.336 of 2019 filed by the petitioners after considering all the aspects vide order dt.18.07.2019. Therefore, I do not see any reason to interfere with the order dt.18.07.2019 in Tr.Crl.M.P.No.336 of 2019 passed by the learned Principal Sessions Judge, Warangal, in dismissing the application filed by the petitioners/Accused.

For the aforesaid reasons, the petitioners have not shown any valid or justifiable grounds to transfer C.C.No.402 of 2008 from the file of the learned Additional Judicial First Class Magistrate, Jangaon, Warangal District, to any other competent Judicial First Class Magistrate Court or any other competent Court in Warangal District. There are no merits in the present Transfer Criminal Petition and the same is liable to be dismissed.

Accordingly, this Transfer Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE G. SRI DEVI

14.11.2019.
Msr

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