

HONOURABLE JUSTICE G. SRI DEVI
TRANSFER CRIMINAL PETITION No.42 of 2019

ORDER:

This petition is filed under Section 407 of Cr.P.C., to withdraw and transfer CrI.A.No.465 of 2018 on the file of II Additional Metropolitan Sessions Judge, Hyderabad, to the Honourable High Court for the State of Telangana, to be heard along with CrI.A.No.1752 of 2018.

2. Heard learned counsel for the petitioner/accused, learned Additional Public Prosecutor for the 1st respondent-State and learned counsel for the 2nd respondent/complainant.

3. After due trial, the petitioner/accused was found not guilty of the offences punishable under Sections 406, 420 and 506 IPC and he was acquitted for the said offences vide judgment dated 23.08.2017 in C.C.No.95 of 2010 on the file of XII Additional Chief Metropolitan Magistrate, Hyderabad. Aggrieved by the same, the 1st respondent-State preferred CrI.A.No.465 of 2018 before the II Additional Metropolitan Sessions Judge, Hyderabad, whereas the 2nd respondent-complainant also preferred CrI.A.No.1752 of 2018 before the Honourable High Court.

4. Learned counsel for the petitioner/accused submits that as question of fact and law are involved in both the appeals are one and the same and if they are decided by different Courts, there is every likelihood of conflicting findings, which would cause grave prejudice to the petitioner and therefore, he prays to transfer CrI.A.No.465 of 2018 pending on the file of II Additional Metropolitan

Sessions Judge, Hyderabad, to the Honourable High Court to be heard along with CrI.A.No.1752 of 2018.

5. Before adverting to the facts of the present case, it would be relevant to extract the provisions of Section 372 Cr.P.C., as under:

“372. No appeal to lie unless otherwise provided:- No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force:

Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court”.

Thus, as per the provisions of Section 372 Cr.P.C., the victim has a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court. In the present case, the 1st respondent-State has already preferred appeal before the Sessions Court and the same is pending for disposal and the punishment for the offences under Sections 406 and 506 IPC is up to the period of three years imprisonment. Therefore, it would be convenient to both parties if CrI.A.No.1752 of 2018 filed by the 2nd respondent-complainant before the Honourable High Court is withdrawn and transferred to the file of II Additional Metropolitan Sessions Judge, Hyderabad, to be heard along with CrI.A.No.465 of 2018 filed by the 1st respondent-State and no prejudice would be caused to the petitioner/accused.

6. Accordingly, the Transfer Criminal Petition is allowed and Crl.A.No.1752 of 2018 is withdrawn from the file of the Honourable High Court and transferred to the file of II Additional Metropolitan Sessions Judge, Hyderabad, to be heard along with Crl.A.No.465 of 2018.

7. Miscellaneous applications, if any pending in this petition, shall stand closed.

G. SRI DEVI, J

26th February, 2020

sj

