

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

Tr.Crl.P. No.12 of 2021

ORDER:

This transfer criminal petition is filed to withdraw Cr.No.202 of 2020 on the file of the IV Additional Chief Metropolitan Magistrate, Hyderabad, and transfer to the file of XII Additional Chief Metropolitan Magistrate, Hyderabad, on the ground of jurisdiction as the matter is now pending on the file of the Central Crime Station, Hyderabad, with Cr.No.202 of 2020.

2. Heard learned counsel for the petitioner, learned Assistant Public Prosecutor for the 1st respondent-State and perused the record.

3. Admittedly, in this case, CC is not numbered and it is the contention of learned counsel for the petitioner that they made a representation to the IV Additional Chief Metropolitan Magistrate, Hyderabad, that the Court has no jurisdiction and the same has to be transferred to the XII Additional Chief Metropolitan Magistrate, Hyderabad, the same is not considered and therefore, they approached this Court by filing this transfer criminal petition.

4. Section 407 Cr.P.C ., reads as under;

"Power of High Court to transfer cases and appeals:-

- (1) Whenever it is made to appear to the High Court-
 - (a) That a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or
 - (b) That some question of law of unusual difficulty is likely to arise; or

- (c) That an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice,

It may order-

(i) that any offence be inquired into or tried by any Court not qualified under Sections 177 to 185 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular case, or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular case be committed for trial to a Court of Session; or

(iv) that any particular case or appeal be transferred to and tried before itself.

(2) the High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative;

Provided that no application shall lie to the High Court for transferring a case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him. “

5. Admittedly, the petitioner has not moved any application before the District Court seeking transfer and as per Section 407(2) Cr.P.C., this application before this Court is not maintainable.

6. Hence, the Transfer Criminal Petition is dismissed. However, the petitioner is at liberty to avail appropriate remedy available under law.

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

LALITHA KANNEGANTI, J

7th December, 2021.

sj