

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

TRANSFER CRIMINAL PETITION No.104 of 2019

ORDER:-

This transfer criminal petition is filed under Section 407 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C") seeking transfer of C.C.No.975 of 2017 on the file of Junior Civil Judge-cum-Judicial First Class Magistrate, Devarakonda to the Special Sessions Judge for Trial of Offences under SC ST (POA) Act, Nalgonda.

2. Heard Sri Tera Rajinikanth Reddy, learned counsel for the petitioner and the learned Assistant Public Prosecutor appearing on behalf of the 1st respondent-State. This Court by order dated 11.11.2021 permitted the petitioner to take out personal notice on the 2nd respondent. Learned counsel for the petitioner filed a memo along with track consignment, which reveals that notice was served on 08.12.2021, but none appeared on behalf of 2nd respondent.

3. Learned counsel for the petitioner submits that it is a case and counter case and initially after conducting investigation, the first complaint was numbered as S.C.No.83 of 2016 and the second complaint, where the petitioner is the *defacto* complainant was numbered as C.C.No.975 of 2017. He submits that one of the witnesses in both the cases is one and the same and the offence alleged in one case is under the provisions of SC ST Act, which is pending before the Special Sessions Judge. He submits that C.C.No.975 of 2017 may be transferred to Special Sessions Court. He submits that initially the petitioner has moved the Court below

by filing Tr.Crl.M.P.No.904 of 2019 and the same was dismissed by order dated 27.09.2019, wherein the learned Judge observed that the incidents that are subject matter of both cases are different, whereas in S.C.No.83 of 2016 the incident is alleged to have occurred when the petitioners 1 and 2 had assaulted the second respondent, who was transporting some beer bottles, whereas in C.C.No.975 of 2017 the incident occurred subsequent to the incident alleged in S.C.No.83 of 2016 and also had occurred at a different place and the accused in that case are also different. It was further observed that the motive for the offence in C.C.No.975 of 2017 is alleged to be the incident that took place in S.C.No.83 of 2016, but both the incident are not part of the same transaction. The case and counter case are defined as two versions of the same transactions, such is not the case here, as such the cases need not be tried together.

4. Heard the learned counsel for the petitioners and perused of entire material on record. On perusal of the charge sheets filed in both the cases, it appears that the first complaint was numbered as S.C.No.83 of 2016 and the second complaint, where the petitioner is the *defacto* complainant was numbered as C.C.No.975 of 2017 and one of the witnesses in both the cases is one and if both the cases are tried by different Courts, there is every likelihood of conflicting of judgments. Moreover, if the both the cases are tried by one Court, no prejudice would be caused to the parties. Though the petitioner has not asked the relief to club both the cases, it would be expedient in the interest of justice to order a common trial to be conducted in both the cases, otherwise, there is no purpose in ordering transfer of the case.

5. Accordingly, the transfer criminal petition is allowed and C.C.No.975 of 2017 on the file of Junior Civil Judge-cum-Judicial Judicial First Class Magistrate, Devarakonda to the Court of Special Sessions Judge for Trial of Offences under SC ST (POA) Act, Nalgonda for conducting joint trial along with S.C.No.83 of 2016 in accordance with law. No costs.

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

JUSTICE LALITHA KANNEGANTI

13th December, 2021

PVD

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(ALLOWED)

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13th December, 2021

PVD