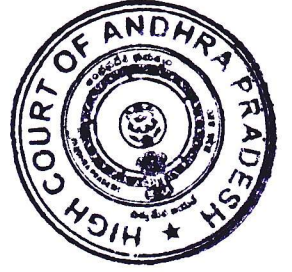


IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

**THURSDAY, THE TWENTY FOURTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE**



PRESENT

THE HON'BLE SRI JUSTICE VENUTHURUMALLI GOPALA KRISHNA RAO

TRANSFER CRIMINAL PETITION NO: 25 OF 2025

Between:

1. G.V. Srinivasa Rao, S/o. G. Kondal Rao, Hindu, aged about 63 years.
Retired Employee, R/o. D.No. 2-2-1136/26/A/C/5(E), Prashanth Nagar,
Hyderabad.
2. G.Sudha Rani, W/o. G.V. Srinivasa Rao, Hindu, aged about 57 years.
House wife R/o. D.No. 2-2-1136/26/A/C/5(E), Prashanth Nagar,
Hyderabad.

...Petitioners/Accused Nos. 1 & 2

AND

1. The State of Andhra Pradesh, Rep by its Public Prosecutor, High Court
at Amaravati.
2. P.V. Rajya Lakshmi, W/o. N. Shyamsundar Naidu, aged about 58 years,
R/o. D.No. 19-14-11, Raghavendra Nagar, Kesavayanagunta, Tirupati
Town and District.

...Respondents/Complainant

Petition under Section 407 of the Criminal Procedure Code praying that
in the circumstances stated in the affidavit filed therewith, the High Court

may be pleased to allow the Transfer Criminal Petition by set aside the order, dated 18.02.2025, in Transfer CrI.M.P. No. 855/2024, on the file of the Hon'ble Court of Principal Sessions Judge, Chittoor, and pleased to withdraw the case CC No. 124 of 2019, on the file of Hon'ble court of III Additional Judicial Magistrate of I Class, Tirupati by transfer the same to any other Hon'ble Magistrate Court at Tirupati.

I.A. NO: 1 OF 2025

Petition under Section 407 (6) of Cr.P.C. praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Order, dated 18.02.2025, in Transfer CrI.M.P. No. 855/2024, on the file of the Hon'ble Court of Principal Sessions Judge, Chittoor, by granting stay of all further proceedings in CC No. 124 of 2019, on the file of Hon'ble court of III Additional Judicial Magistrate of I Class, Tirupati, including appearance of the petitioners/Accused Nos.1 & 2.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri V. Roopesh Kumar Reddy, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 and of Sri Namineni Pavan Kumar, Advocate for the Respondent No.2.

The Court made the following ORDER:

HONOURABLE SRI JUSTICE V. GOPALA KRISHNA RAO

TRANSFER CRIMINAL PETITION NO.25 OF 2025

ORDER:

The petitioners herein have filed the present petition seeking to order transfer of C.C.No.124 of 2019 on the file of the III Additional Judicial First Class Magistrate, Tirupati to any other Magistrate Court at Tirupati.

2. The case of the petitioners in brief is as follows:

The petitioners are A1 and A2 in C.C.No.124 of 2019 on the file of the III Additional Judicial First Class Magistrate, Tirupati for the offence under Section 138 of Negotiable Instruments Act. The petitioners contend that the accused in C.C.No.154 of 2014 on the file of the III Additional Judicial First Class Magistrate, Tirupati i.e., A.3 therein viz., N. Pavan took advantage of the order passed in quash petition i.e., CrI.P.No.4438 of 2016 has filed a complaint before the III Additional Judicial First Class Magistrate, Tirupati to take perjury under Section 340 of the Criminal Procedure Code ("Cr.P.C." for short) against the petitioners. The petitioners further contend that the learned III Additional Judicial First Class Magistrate, Tirupati without giving an opportunity of hearing or notice to the petitioners, simply gave complaint through the Superintendent which was made over and numbered as C.C.No.808 of 2024 on the file of Principal Junior Civil Judge, Tirupati. The petitioners also contend the same III Additional Judicial First Class Magistrate, Tirupati has proceeded for trial in C.C.No.124 of 2019 where the petitioners apprehends injustice and felt that it will not safe for them to face trial in C.C.No.124 of 2019 because the same Magistrate has forwarded the perjury case where some parties in both the cases are one and the same and also a part of subject will carry with the case and in respect of outstanding debt and that the petitioners are constrained to file this application for seeking transfer the present Transfer Criminal Petition from III Additional Judicial First Class Magistrate, Tirupati to any other Magistrate Court which is situated at Tirupati.

3. The 2nd respondent filed detailed counter before the Registry and the same is placed on record. The brief averments in the counter are as follows:

The petitioners herein preferred Transfer Criminal Petition No.280 of 2013 before the composite High Court of Andhra Pradesh at Hyderabad, for seeking transfer of the Negotiable Instruments Act case from Tirupati Court to Hyderabad Court for trial along with another case. But the composite High Court of Andhra Pradesh at Hyderabad vide its order, dated 10.04.2013 transferred another case from Hyderabad Court to Tirupati Court that was for conduct a joint trial along with present case proceedings on record. Learned counsel for the 2nd respondent also seriously contended that both the cases are pending before the III Additional Judicial First Class Magistrate, Tirupati and the learned III Additional Judicial First Class Magistrate, Tirupati has to dispose of both the cases and therefore the primary objection raised by the respondent is that the present transfer application is not maintainable.

4. Heard Sri V. Roopesh Kumar Reddy, learned counsel for the petitioners; heard Sri Namineni Pavan Kumar, learned counsel for the 2nd respondent and the learned Assistant Public Prosecutor.

5. The petitioners would contend that the III Additional Judicial First Class Magistrate, Tirupati forwarded the complaint under Section 340 of Cr.P.C. to the Principal Junior Civil Judge, Tirupati through the Superintendent in view of the observation made by the Composite High Court of Andhra Pradesh at Hyderabad in Transfer Criminal Petition No.4438 of 2016.

6. The material on record *prima facie* shows that the III Additional Judicial First Class Magistrate, Tirupati forwarded a complaint under Section 340 of Cr.P.C. through the Superintendent against the petitioners herein and that in order to getting a fair and impartial enquiry, the petitioners seeking for transfer of present case from III Additional Judicial First Class Magistrate, Tirupati to any other Magistrate Court at Tirupati. It was brought to the notice,

of this Court that the present case is instituted in the year 2012 before the III Additional Judicial First Class Magistrate, Tirupati and numbered as S.T.C.No.448 of 2012 and thereafter it was renumbered as C.C.No.124 of 2019 and the proceedings instituted in the present case are quite different to the proceedings instituted under Section 340 of Cr.P.C. Moreover, the proceedings in C.C.No.808 of 2024 against the petitioners under Section 340 of Cr.P.C. are pending before Principal Junior Civil Judge, Tirupati and learned Principal Junior Civil Judge, Tirupati has to be disposed of the said case. Both the counsels represented that the present case in C.C.No.124 of 2019 on the file of the III Additional Judicial First Class Magistrate, Tirupati is posted for further cross of P.W.1 and the trial has been commenced and the case has been instituted after lapse of 13 years which is now pending.

7. The law is well settled that the apprehension of not getting a fair and impartial enquiry or trial is required to be reasonable and not imaginary based upon conjunctions and surmises.

8. In the case of **Captain Amarinder Singh vs. Prakash Singh Badal and others**¹, the Apex Court held as follows:

"Mere allegations that there is an apprehension that justice will not be done in a criminal case does not suffice. In other words, the Court has further to see whether apprehension alleged is reasonable or not. The apprehension must not only be entertained but must appear to the Court to be a reasonable apprehension".

9. For the aforesaid reasons, I am of the considered view that no *prima facie* material has been placed out by the petitioners stating that the Presiding Officer of the III Additional Judicial First Class Magistrate, Tirupati is acting unfairly. Therefore, I do not find any merit and subsistence in the contention taken by the petitioners.

¹ (2009) 6 SCC 260

10. In the result, the Transfer Criminal Petition is dismissed.

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

//TRUE COPY//

Sd/- K J RAJA BABU
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Sessions Judge, Chittoor.
2. The III Additional Judicial Magistrate of I Class, Tirupati.
3. One CC to Sri. V. Roopesh Kumar Reddy, Advocate [OPUC]
4. One CC to Sri. Namineni Pavan Kumar, Advocate [OPUC]
5. Two CC to Public Prosecutor, High Court of Andhra Pradesh at Amaravathi. [OUT]
6. Three CD Copies

Chp
sree

HIGH COURT

DATED:24/04/2025

ORDER

TRCRLP.No.25 of 2025



DISMISSING THE TR.CRIMINAL PETITION