

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

FRIDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR



PRESENT

THE HONOURABLE SRI JUSTICE BANDARU SYAMSUNDER

TRANSFER CRIMINAL PETITION No.93 of 2023

Between:

Shaik Nayab Rasool, S/o Rasool, aged 55 years, Occ: Govt. Service, R/o D.No.9-25-90, Janatha Peta, North Kavali, S.P.S.R Nellore District.

...Petitioner/Accused

AND

1. The State of Andhra Pradesh, rep by its Public Prosecutor, High Court of Andhra Pradesh, Amaravathi.

...Respondent

2. Kapil Chits (Kosta) Pvt Ltd, Incorporated under the Indian Companies Act having various branches and one of its branches, Divisional Office at Srikakulam, Rep. by its Legal Officer, Manapuram Tirupathi Rao, S/o Kesava Rao, Aged about 49 years,

...Respondent/Complainant

Petition filed under Section 407 of CrI.P.C praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to order withdrawal of C.C No.226 of 2021 on the file of the court of learned Principal Junior Civil Judge at Srikakulam and transfer the same for trial and disposal to the court of any of the learned Judicial Magistrate of First Class at Nellore, SPSR Nellore District for trial and disposal in accordance with law.

I.A. NO: 1 OF 2023

Petition under Section 407(6) of CrI.P.C praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Order Stay of all further proceedings including appearance of the petitioner/accused in CC No.226 of 2021 on the file of the court of learned Principal Junior Civil Judge at Srikakulam, pending disposal of the Transfer Criminal Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Mr. Karemulla Shaik, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 and of Mr. B. Chandra Sekhar, representing on behalf of Ms. Sireesha Rani Vallabhaneni, Advocate for the Respondent No.2.

The Court made the following: ORDER

APHC010484502023



IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)

[3366]

FRIDAY ,THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE B SYAMSUNDER

TRANSFER CRIMINAL PETITION NO: 93 OF 2023

Between:

SHAIK NAYAB RASOOL AND OTHERS

...PETITIONER(S)

AND

THE STATE OF ANDHRA PRADESH AND OTHERS

...RESPONDENT(S)

Counsel for the Petitioner(s):SRI. KAREMULLA SHAIK

**Counsel for the Respondents: PUBLIC PROSECUTOR (AP) Ms.SIREESHA RANI
VALLABHANENI**

The Court made the following:

I have heard learned counsel for the petitioner, Mr.Karemulla Shaik, through virtual hearing as well as learned counsel Mr.B.Chandra Sekhar representing on behalf of Ms.Sireesha Rani Vallabhaneni, learned counsel for respondent No.2.

2. This petition is filed by the petitioner/appellant under Section 407 Code of Criminal Procedure seeking transfer of C.C.No.226 of 2021 from Principal Junior Civil Judge Court, Srikakulam to Principal Junior Civil Judge Court, Kavali, Nellore District, on the ground that alleged chit transaction has taken place at Nellore and he is working at

Nellore, which is at distance of 750 K.ms from Srikakulam where respondent No.2/chit fund company chosen to file cheque bounce case with false grounds. Petitioner submits that he is suffering from ill-health, due to that he could not travel a distance of 750 K.ms to put forth his grievance in C.C No.226 of 2021 pending on the file of Principal Junior Civil Judge Court, Srikakulam. He prays to allow the petition.

3. The learned counsel for the petitioner also filed a copy of chit agreement as additional material paper, which shows that chit transaction which is subject matter in C.C No.226 of 2021 which has taken place at Nellore as chit agreement also registered at Nellore.

4. The learned counsel for the petitioner would submit that though chit transaction has taken place at Nellore, respondent No.2/chit fund company chosen to file cheque bounce case against the petitioner before the Principal Junior Civil Judge Court, Srikakulam only with an intention to cause inconvenience to petitioner as admittedly Nellore Town is at a distance of 750 K.ms from Srikakulam Town, due to that the petitioner being in Government Service, is not in a position to attend the Court at Srikakulam. He further submits that though in C.C No.226 of 2021 respondent No.2 has stated that they also filed civil suit for recovery of amount due from the petitioner, no such suit is filed. He prays to allow the petition.

5. The learned counsel representing for respondent No.2 would submit that the petitioner himself has stated in his affidavit that he has given cheque bearing No.756822 for Rs.9,55,500/- to 2nd respondent company at Srikakulam which was presented at Andhra Bank, Srikakulam by 2nd respondent/chit fund company, which was dishonored with an endorsement that payment stopped by drawer due to that they filed cheque bounce case before Principal Junior Civil Judge Court, Srikakulam. He would further submit that petitioner has not filed any medical certificate to support his contention that he is suffering from ill-health, he prays to dismiss the petition.

6. A perusal of records which shows that the petitioner is admittedly a resident of Kavali Town of Nellore District, who alleged to have been committed default in payment of chit installments to respondent No.2/chit fund company. A perusal of chit agreement pertaining to subject matter in C.C No.226 of 2021 shows that chit agreement was registered at Nellore and petitioner said to be issued back cheque in favour of respondent No.2/chit fund company for Rs.9,55,500/- drawn on State Bank of India, Kavali Branch. Which supports the contention of the petitioner that transaction has taken place at Nellore District. It is also not in dispute that respondent No.2/chit fund company is also having branches at Kavali Town of

Nellore District and also at Nellore Town due to that chit agreement registered at Nellore.

7. Admittedly, the petitioner is working as Senior Assistant in District Medical Office, Kavali of Nellore District, which is at a distance of 750 k.ms from Srikakulam Town. After considering the fact that the petitioner is residing at Kavali Town and alleged chit transaction between petitioner and respondent No.2 taken place in Nellore District when C.C.No.226 of 2021 filed by respondent No.2/chit fund company pending before Principal Junior Civil Judge Court, Srikakulam certainly, it would be difficult for the petitioner to travel to putforth his defence leaving his employment. For respondent No.2 they are having branches all over the state of Andhra Pradesh and it is not their contention that they are not having any branch at Nellore Town or Kavali Town. There are grounds to consider the request of the petitioner to transfer C.C No.226 of 2021 from Principal Junior Civil Judge Court, Srikakulam to Principal Junior Civil Judge Court, Kavali of Nellore District.

8. In the result, this Transfer Criminal Petition is allowed. The Calender Case No.226 of 2021 on the file of Principal Junior Civil Judge Court, Srikakulam, is hereby withdrawn and transferred to Principal Junior Civil Judge Court, Kavali of Nellore Judicial District. The learned Principal Junior Civil Judge, Srikakulam, shall transmit

the case records in C.C No.226 of 2021 to Principal Junior Civil Judge Court, Kavali, Nellore District, duly indexed, as expeditiously as possible, within a period of two (2) weeks, from the date of receipt of order of this Court in the present petition. The petitioner and representative of respondent No.2 shall appear before Principal Junior Civil Judge Court, Kavali of Nellore District, on 15.03.2024 at 10.30 am. No order as to costs.

Consequently, miscellaneous petitions, if any, shall stand closed. The interim stay granted if any, shall stand vacated.

Sd/- K TATA RAO
DEPUTY REGISTRAR

//TRUE COPY//


SECTION OFFICER

To

1. The Principal Junior Civil Judge at Srikakulam, Srikakulam District. **(with records if any)**
2. The Principal Junior Civil Judge, Kavali, SPSR Nellore District. **(with records if any)**
3. One CC to Mr. Karemulla Shaik, Advocate [OPUC]
4. One CC to Ms. Sireesha Rani Vallabhaneni, Advocate [OPUC]
5. Two CCs to The Public Prosecutor, High Court of Andhra Pradesh at Amaravathi [OUT]
6. Shaik Nayab Rasool, S/o Rasool, aged 55 years, Occ: Govt. Service, R/o D.No.9-25-90, Janatha Peta, North Kavali, S.P.S.R Nellore District.
7. Kapil Chits (Kosta) Pvt. Ltd, Incorporated under the Indian Companies Act having various branches and one of its branches, Divisional Office at Srikakulam, Rep. by its Legal Officer, Manapuram Tirupathi Rao, S/o Kesava Rao, Aged about 49 years,
8. **Three CD Copies**

TK
VNA

Pujitha

HIGH COURT

DATED:16/02/2024

ORDER

TRCRLP.No.93 of 2023

11 copies
TP
6/3/24



ALLOWING THE TRANSFER CRIMINAL PETITION