

THE HON'BLE SRI JUSTICE V. GOPALA KRISHNA RAO

TRANSFER CRIMINAL PETITION No.44 of 2026

ORDER:

The petitioner filed the present petition under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS, 2023'), seeking to withdraw S.C.No.315 of 2018, on the file of the learned VII Additional District & Sessions Judge, SPSR Nellore District, and to transfer the same to the file of any other Additional District and Sessions Judge at Tirupati, Chittoor District, for trial and disposal.

2. Heard Sri P.Nagendra Reddy, learned counsel for the petitioner, learned counsel for respondent No.2, and the learned Assistant Public Prosecutor on behalf of respondent No.1.

3. Perused the record.

4. The learned counsel for the petitioner would contend that originally S.C.No.315 of 2018, on the file of the learned VII Additional District & Sessions Judge, SPSR Nellore District, was posted for judgment on 13.03.2026, but the prosecution filed a petition on 12.03.2026 to reopen and recall the case, to mark the consumer application, which was already filed along with the charge sheet, as an exhibit, on hearing both sides that application was allowed by the learned Sessions Judge.

5. The learned counsel for the petitioner contended that the scope of reopening and recall of the witness is very limited, and subsequent to the examination of the Investigating Officer, the accused were examined under Section 313 Cr.P.C., and the arguments of the accused were heard.

6. The learned Assistant Public Prosecutor would contend that the matter has been listed tomorrow i.e., on 01.04.2026, for submission of arguments by accused No.7.

7. As can be seen from the material on record, it is evident that sessions case is of the year 2018 is now pending for arguments, and the sessions case for an offence punishable under Section 302 IPC has been pending for eight years before the learned Sessions Judge, Gudur, SPSR Nellore District.

8. The ground urged by the petitioner/accused No.1 in the affidavit filed by him for seeking transfer of the sessions case from Gudur to any other Court at Tirupati is that, after recalling the witness, i.e., the Investigating Officer, and after completion of his evidence, the Investigating Officer went to the chambers of the Presiding Officer/learned Sessions Judge and discussed the case with the Presiding Officer for more than one hour. As can be seen from the affidavit of the petitioner, no *prima facie* material has been placed on record to substantiate the allegation that the Investigating Officer entered the chambers of the Presiding Officer/learned

Sessions Judge and discussed the sessions case pending before the Court for more than one hour. The said contention remains a mere bald assertion. Admittedly, no *prima facie* material has been placed by the petitioner to show that the Presiding Officer/learned Sessions Judge is acting unfairly or is influenced by any extraneous considerations.

9. The apprehension of the petitioner herein/accused No.1 is that the learned Sessions Judge/Presiding Officer of the Additional District Court, Gudur, personally discussed the sessions case pending before the said Court with the Investigating Officer for more than one hour in his chambers, and that the petitioner felt that the Investigating Officer influenced the mind of the Presiding Officer.

10. The law is well settled that mere apprehension is not a ground for seeking transfer of sessions case or any other case, from one place to another without any *prima facie* evidence or material. The learned Assistant Public Prosecutor contended that even after completion of the trial, the accused used to threaten the witnesses. The learned counsel for the petitioner contended that the said allegations are baseless.

11. The Apex Court in a case of ***Nahar Singh Yadav & Anr Vs Union of India &ors***¹ held as follows:

¹ 2011 (1) SCC 307

“24. Thus, although no rigid and inflexible rule or test could be laid down to decide whether or not power under Section 406 of the Cr.P.C. should be exercised, it is manifest from a bare reading of sub-sections (2) and (3) of the said Section and on an analysis of the decisions of this Court that an order of transfer of trial is not to be passed as a matter of routine or merely because an interested party has expressed some apprehension about the proper conduct of a trial. This power has to be exercised cautiously and in exceptional situations, where it becomes necessary to do so to provide credibility to the trial. Some of the broad factors which could be kept in mind while considering an application for transfer of the trial are:

(i) when it appears that the State machinery or prosecution is acting hand in glove with the accused, and there is likelihood of miscarriage of justice due to the lackadaisical attitude of the prosecution;

(ii) when there is material to show that the accused may influence the prosecution witnesses or cause physical harm to the complainant;

(iii) comparative inconvenience and hardships likely to be caused to the accused, the complainant/the prosecution and the witnesses, besides the burden to be borne by the State

Exchequer in making payment of travelling and other expenses of the official and non-official witnesses;

(iv) a communally surcharged atmosphere, indicating some proof of inability of holding fair and impartial trial because of the accusations made and the nature of the crime committed by the accused; and

(v) existence of some material from which it can be inferred that the some persons are so hostile that they are interfering or are likely to interfere either directly or indirectly with the course of justice.”

12. As noted supra, this transfer criminal petition is filed by accused No.1 alone, and the other accused are not shown as respondents in this petition. Moreover, the petitioner has not even produced any credible *prima facie* evidence before this Court to substantiate the allegations leveled against the Presiding Officer. Therefore, the same are nothing but bald and reckless assertions made by the petitioner to delay the judicial process. The law is well settled that the transfer of a criminal case cannot be ordered on the basis of vague, bald, or unsubstantial allegations.

13. In the case of ***Maneka Sanjay Gandhi v. Rani Jethmalani***², the Hon'ble Supreme Court held as follows:

² (1979) 4 SCC 167

2. *Assurance of a fair trial is the first imperative of the dispensation of justice and the central criterion for the Court to consider when a motion for transfer is made is not the hypersensitivity or relative convenience of a party or easy availability of legal services or like mini-grievances. Something more substantial, more compelling, more imperiling, from the point of view of public justice and its attendant environment, is necessitous if the Court is to exercise its power of transfer. This is the cardinal principle although the circumstances may be myriad and vary from case to case. We have to test the petitioner's grounds on this touchstone bearing in mind the rule that normally the complainant has the right to choose any Court having jurisdiction and the accused cannot dictate where the case against him should be tried. Even so, the process of justice should not harass the parties and from that angle the Court may weigh the circumstances."*

14. The transfer of a case is not to be ordered on mere apprehension or convenience of the accused. It can be done only when there is a real and reasonable apprehension that justice will not be done. Admittedly, the petitioner has not placed any *prima facie* material to show any real and reasonable apprehension that justice will not be done. As noted supra, it is not at all the case of the petitioner that the Presiding Officer/learned Sessions Judge has acted unfairly or has been influenced by any extraneous considerations.

15. For the aforesaid reasons, I do not find any grounds to consider the request of the petitioner to transfer the case, and the present Transfer Criminal Petition is devoid of merits.

16. Accordingly, this Transfer Criminal Petition is dismissed.

As a sequel, miscellaneous petitions, if any pending and the Interim Order granted earlier, if any, shall stand closed.

JUSTICE V. GOPALA KRISHNA RAO

Date: 31.03.2026

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