THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA TRANSFER CRIMINAL PETITION Nos.29, 30, 31 and 32 of 2021 COMMON ORDER:

Heard learned counsel for the petitioner and learned counsel for the 1^{st} respondent.

- 2. In all the criminal petitions, petitioner and 1st respondent are one and the same and all are arising out of the matrimonial disputes between the wife and husband/petitioner and 1st respondent. Hence, this Court is inclined to pass a common order in all the criminal petitions.
- 3. Tr.Crl.P.No.29 of 2021 is filed seeking transfer of D.V.C.No.003 of 2016 on the file of the Judicial Magistrate of First Class, Dhone, Kurnool District to any Court situated at Vijayawada, Krishna District. The said D.V.C. is filed under the Protection of Women from Domestic Violence Act, 2005.
- 4. Tr.Crl.P.No.30 of 2021 is filed seeking transfer of Crl.R.P.No.39 of 2019 on the file of the Court of the Principal District and Sessions Judge, Kurnool to any Court situated at Vijayawada, Krishna District. The said Criminal Revision Petition is filed under Sections 397 and 399 of Cr.P.C. by the 1st respondent herein challenging the order dated 22.05.2019 passed in M.C.No.19 of 2016 on the file of the Judicial Magistrate of First Class, Dhone, Kurnool District.
- 5. Tr.Crl.P.No.31 of 2021 is filed seeking transfer of C.C.No.743 of 2016 on the file of Judicial Magistrate of First Class, Dhone, Kurnool District, to any Court situated at Vijayawada. Crime No.132 of 2016 of Dhone Police Station is registered at the

Section 498-A read with 34 I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act. Charge sheet has been filed in the year 2016 itself and the same was numbered as C.C.No.743 of 2016.

- 6. Tr.Crl.P.No.32 of 2021 is filed seeking transfer of F.C.O.S.No.1 of 2019 on the file of the Family Court at Kurnool, to any Court situated at Vijayawada. Originally F.C.O.P.No.428 of 2018 is filed by the 1st respondent/husband on the file of the Judge, Family Court, Guntur, but it was transferred and renumbered as F.C.O.S.1 of 2019 on the file of the Family Court at Kurnool, in view of the orders passed in Tr.C.M.P.No.746 of 2018 filed by the petitioner herein.
- 7. In all the transfer criminal petitions, the petitioner herein is the wife of the 1st respondent herein and she sought for transfer of all the cases on the following grounds as mentioned in her affidavit.
- (1) During pendency of the proceedings, her father had been retired and after his retirement he is residing at Vijayawada and he also lost his vision partially. She is staying along with her father, since she did not have any independent source of income. In view of the financial dependency upon her father and due to old age, he is not in a position to accompany her to attend the Courts at Dhone and Kurnool. As such she is unable to travel from Vijayawada to Dhone to prosecute her cases. Moreover, relatives of the 1st respondent are threatening and harassing the petitioner while she is attending the Court adjournments in Dhone. Since

she has no independent income source, it is very difficult to her to attend the Courts at Done, Kurnool from Vijayawada.

- (2) She is the only daughter of her father and no male member is available to accompany while her travel from Vijayawada to Dhone, which is far away from Vijayawada. As such, she is unable to attend the cases before the Courts at Dhone and Kurnool.
- (3) She has two minor kids, therefore, by leaving them she would not be able to travel from Vijayawada to Kurnool and it is very difficult to contact her counsel for each and every adjournment. Hence, she prayed for transfer of all the cases as stated above from Dhone and Kurnool to any Court situated at Vijayawada.
- 8. The 1st respondent/husband filed a detailed counter affidavit in all the transfer criminal petitions. In the said counter affidavit he stated as follows:
- (a) He is staying at Mangalagiri, Guntur District. The petitioner initially filed M.C.No.19 of 2016, D.V.C.No.003 of 2016 and C.C.No.743 of 2016 on the file of the Judicial Magistrate of First Class, Dhone with an intention to harass him even though she is not the resident of Dhone and even her father not worked any point of time at Dhone as a Railway Employee but with the help of her relatives, she filed all the cases at Dhone, more particularly, one Mr. Shaik Ghouse, who is working as Circle Inspector, C.I.D., Guntur. The said Circle Inspector manhandling him and therefore, he lodged a complaint against him before the Superintendent of Police, Kurnool and Deputy Superintendent of Police, Dhone with a

request to take action against the said Circle Inspector. In fact the parents of the petitioner are hails from Nowluru, Mangalagiri Mandal and they are staying at Vijayawada. The petitioner also pursued her education at Vijayawada. Even though contrary to her convenience to harass the 1st respondent herein, she lodged all the complaints at Dhone. As such, all the petitions are liable to be Tr.Crl.P.No.32 of 2021 is filed seeking transfer of dismissed. F.C.O.S.No.1 of 2019 filed by him on the file of the Family Court, Kurnool. Originally, he filed F.C.O.P.No.428 of 2018 on the file of the Judge, Family Court, Guntur. But the petitioner herein filed Tr.C.M.P.No.746 of 2018 before the combined High Court of Andhra Pradesh at Hyderabad seeking transfer of the said F.C.O.P. to the file of the Judge, Family Court, Kurnool. Accordingly, this Court vide order dated 19.12.2018 allowed the said petition and transferred the same to the file of the Family Court at Kurnool and the same is renumbered as F.C.O.S.No.1 of 2019. Tr.Crl.P.No.231 of 2016 seeking transfer of M.C.No.19 of 2016 on the file of Judicial Magistrate of First Class, Dhone to any other Court in Guntur Town, wherein this Court vide order dated 08.11.2016, while disposing of the petition granted protection to him since there is a threat of life to him while attending the Court Proceedings at Dhone.

(b) In these circumstances, Tr.Crl.P.No.32 of 2021 filed by the petitioner is not proper. In earlier occasion she filed Tr.C.M.P.No.746 of 2018 seeking transfer of same F.C.O.P. from Guntur to Kurnool, which was allowed and accordingly, the same was transferred to Kurnool and renumbered as F.C.O.S.No.1 of 2019. Again she filed this transfer criminal petition seeking

transfer of that F.C.O.S. from Kurnool to Vijayawada and it is nothing but abuse of process of law. Moreover, the transfer criminal petition is not at all maintainable seeking transfer of F.C.O.S.No.1 of 2019 on the file of Judge, Family Court, Kurnool to any Court at Vijayawada. As such, this transfer criminal petition is liable to be dismissed and devoid of merits.

- (c) Tr.Crl.P.No.30 of 2021 is filed against Crl.R.P.No.39 of 2019 on the file of the Court of the Principal District and Sessions Judge, Kurnool. Since the said Criminal Revision Petition is filed by 1st respondent challenging the order passed in M.C.No.19 of 2016 as such, there is no necessity of requirement of presence of the petitioner herein for the reason that it is only a revision against the order of the Court below. Therefore, the grounds pleaded by her not at all applicable in appellate/revisional jurisdiction. Therefore, the present Tr.Crl.P.No.30 of 2021 is also liable to be dismissed and devoid of merits.
- (d) Tr.Crl.P.Nos.29 and 31 of 2021, which are filed seeking transfer of D.V.C.No.003 of 2016 wherein the chief examination of the petitioner as well as cross-examination already completed i.e., the trial is completed and pending for arguments only and C.C.No.743 of 2016 on the file of the Judicial Magistrate of First Class, Dhone, wherein it is admitted by the petitioner as well as the 1st respondent that the evidence already adduced by them, and trial is completed, thus it is coming up for arguments as well as for judgment only. As such, the presence of petitioner is not much required since trial is already completed in the above mentioned two cases. Therefore, if any transfer petition is ordered at this

juncture, it is against the interest of the petitioner and also against the object of Section 407 of Cr.P.C. Hence, the present petitions are liable to be dismissed and devoid of merits.

- 9. After going through the affidavits filed in support of all the transfer criminal petitions by the petitioner, she did not plead any valid reasons or grounds as required to make an order under Section 407 of Cr.P.C. except difficulty of travelling to Kurnool, which comes under the ground of general convenience. On the other hand, regarding Tr.Crl.P.No.32 of 2021, wherein she availed the indulgence of this Court, accordingly, F.C.O.P.No.428 of 2018 was transferred from the file of the Judge, Family Court, Guntur to the file of the Judge, Family Court, Kurnool. As such, once she is availed an order in her favour, she cannot plead again on subsequent change of her stay. If this is accepted, there is no ending for litigation. Hence, the plea of petitioner is rejected.
- 10. It is admitted by both the learned counsel that the trial is completed in D.V.C.No.003 of 2016 and C.C.No.743 of 2016 as such both matters are pending for arguments and judgment only, therefore, these two matters cannot be transferred at this stage, if so, it is against the interest of both the parties and also against the object of Section 407 of Cr.P.C.
- 11. Whereas M.C.No.19 of 2016 was already disposed of by the Court below, vide its order dated 22.05.2019 against which the 1st respondent filed Criminal Revision Petition No.39 of 2019 on the file of the Principal District and Sessions Judge, Kurnool, which is coming up for arguments only. As such, the presence of the petitioner is not at all required. Hence, it cannot be transferred.

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12. In view of the facts and circumstances stated above, there

are no valid grounds to transfer the above said cases from Dhone

and Kurnool to any Court situated at Vijayawada, Krishna District.

Therefore, all the transfer criminal petitions are liable to be

dismissed.

13. At the time of arguments, learned counsel for the petitioner

prayed that this Court may be pleased to direct the Judicial

Magistrate of First Class, Dhone to dispose of C.C.No.743 of 2016

within a period of three (3) months from the date of receipt of a

copy of this order.

14. Accordingly, Tr.Crl.P.Nos.29, 30 and 32 of 2021 are

dismissed. However, the learned Judicial Magistrate of First Class,

Dhone, is directed to dispose of C.C.No.743 of 2016, as

expeditiously as possible, preferably within a period of three (3)

months from the date of receipt of a copy of this order.

Accordingly, Tr.Crl.P.No.31 of 2021 is disposed of. There shall be

no order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in

these Transfer Criminal Petitions shall stand closed.

VENKATESWARLU NIMMAGADDA, J

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Date: 30.03.2022

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THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

TRANSFER CRIMINAL PETITION Nos.29, 30, 31 and 32 of 2021

Dated: 30.03.2022

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