

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.C.M.P.No.399 of 2015

ORDER:

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This petition is filed by the petitioner/wife to withdraw O.P.No.350 of 2015, instituted by respondent/husband for divorce, from the file of Family Judge, Ranga Reddy District at L.B.Nagar and transfer the same to the Court of Family Judge, West Godavari District at Eluru to be tried along with O.P.No.24 of 2015 filed by the petitioner/wife for restitution of conjugal rights.

The case of the petitioner is that her marriage with the respondent took place on 02-05-2008 at Manna Church, Shantinagar, Eluru, West Godavari District as per the Christian Marriage rites. At the time of marriage, the respondent was working as sales Manager in Sleek International Company at Hyderabad. After the marriage, they lived at Jeedimetla, Hyderabad and lead marital life and the petitioner suffered harassment in the hands of respondent and his family members, who demanded for additional dowry. It is further stated that the respondent and his family members necked out the petitioner from the matrimonial home and the petitioner complained to the police for demanding additional dowry in Cr.No.123 of 2010 against the respondent and his family members for the offences punishable under Sections 498-A, 406 r/w.34 IPC and Section 3 of Dowry Prohibition Act. The petitioner also filed D.V.C.No.18 of 2012 on the file of Judicial Magistrate of First Class, Special Mobile Court, Eluru and the same was disposed of on 08-09-2014. As the petitioner is interested in joining the company of respondent, she filed OP.No.24 of 2015 for restitution of conjugal rights before the Family Court, West Godavari District at Eluru. After filing the same, the respondent filed the present OP for grant of divorce.

Counter is filed denying the allegations made by the petitioner stating that the petitioner herself harassed the respondent and his family members. It is also stated that since marriage, the petitioner used to quarrel finding some faults on every simple reason and always used to threaten to commit suicide, as she is not interested to join the company of respondent. It is also stated that against the orders passed in D.V.C.No.18 of 2012, the respondent preferred appeal vide Crl.A.No.197 of 2014 on the file of VII Additional District & Sessions Judge-cum-Family Court at Eluru and stay was granted against the orders passed in D.V.C.

Heard learned counsel for the petitioner and the respondent.

It is to be seen that the respondent filed Crl.A.No.197 of 2014 before the VII Additional District Judge and OP.No.24 of 2015 filed by the petitioner for

restitution of conjugal rights also pending before the Family Court, West Godavari at Eluru and O.P.No.350 of 2015 filed by respondent/husband for divorce before the Family Court, Ranga Reddy District. If OPs are tried together, conflicting judgments can be avoided. As such, OP.No.350 of 2015 is liable to be transferred to the Family Court, Eluru to be tried along with OP.NO.24 of 2015. The petitioner stated that she is residing at her parents house at Eluru and depending on them. It is also stated that the petitioner has no income to come over to Hyderabad to contest the OP No.350 of 2015 filed by the respondent and she is anticipating danger in the hands of respondent. In the judgment of **Sumita Singh v.Kumar Sanjay and another**^[1], the Apex Court held that in considering transfer petitions in matrimonial proceedings, convenience of a wife be looked into.

In view of the facts and circumstances stated above,
I am of the opinion that O.P.No.350 of 2015 pending on the file of Family Court, Ranga Reddy District is liable to be transferred.

Accordingly, Transfer CMP is allowed and O.P.No.350 of 2015 is withdrawn from the file of Family Court, Ranga Reddy District and transferred the same to Family Court, West Godavari District at Eluru to be tried along with O.P.No.24 of 2015. However, as learned counsel for the respondent submits that presence of respondent may be dispensed with on each and every date of hearing at Family Court, West Godavari District at Eluru, the learned Judge, Family Court shall not insist the presence of respondent on each and every date of hearing except on the date of conciliation and for cross-examination and on any other purpose, if required.

As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

09-12-2015
Nvl

[\[1\]](#) AIR 2002 SC 396