

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.Nos.343 AND 428 OF 2015

COMMON ORDER:

Since the parties are common in both the petitions, these petitions are disposed of by a common order.

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2. Tr.C.M.P.No.343 of 2015 is filed by the wife to withdraw F.C.O.P.No.452 of 2015 from the file of the Judge, Family Court at Vasakhapatnam, to be tried along with F.C.O.P.No.2048 of 2014 on the file of the Judge, Family Court, Ranga Reddy District.

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3. Tr.C.M.P.No.428 of 2015 is filed by the husband to withdraw F.C.O.P.No.2048 of 2014 from the file of the Judge, Family Court, Ranga Reddy District, L.B.Nagar, to the Judge, Family Court at Visakhapatnam.

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4. Heard both sides and perused the material available on record.

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5. In order to avoid confusion the parties will be referred to as they are arrayed in Tr.C.M.P.No.343 of 2015.

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6. The marriage of the petitioner was performed with the respondent on 20.02.1988 at Vasakhapatnam, as per Hindu rites and customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with a son and a daughter. The petitioner filed F.C.O.P.No.2048 of 2014 on the file of the Judge, Family Court, Ranga Reddy District, for dissolution of marriage between herself and the respondent. The respondent

filed F.C.O.P.No.452 of 2015 on the file of the Judge, Family Court at Visakhapatnam, for restitution of conjugal rights.

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7. As per the recitals of F.C.O.P.No.452 of 2015, the petitioner has been residing in Hyderabad. The fact remains that the petitioner and her children have been residing in Hyderabad. The respondent is working as a Senior Manager in Visakhapatnam Steel Plant.

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8. The relief sought for in F.C.O.P.No.2048 of 2014 is wider than the relief sought for in F.C.O.P.No.452 of 2015. The fact remains that the petitioner filed divorce petition in the year 2014, whereas the respondent filed petition for restitution of conjugal rights in the year 2015. The distance between Visakhapatnam and Hyderabad is around 700 KMs. The petitioner may face some difficulty to travel 700 KMs., in order to prosecute F.C.O.P.No.452 of 2015 at Visakhapatnam. While deciding the cases of this nature, the Court has to take into consideration the inconvenience likely to be caused to the parties, more particularly to the wife and children.

9. As per the principle enunciated in **V. Sailaja v.**

V. Koteswara Rao^[1], **Rachna Kanodia v. Anuk Kanodia**^[2] and **Sumita Singh v. Kumar Sanjay**^[3], the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

10. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that the relief sought for by the petitioner in Tr.C.M.P.No.343 of 2015 deserves to be allowed.

11. As rightly pointed out by the learned counsel for the respondent that the respondent being a Senior Manager in Visakhapatnam Steel Plant, he may face some difficulty to attend the Family Court at Ranga Reddy District on each and every date of adjournment. Even if the presence of the respondent is dispensed with, no prejudice would be caused to the petitioner.

12. In the result, the Tr.C.M.P.No.343 of 2015 is allowed. F.C.O.P.No.452 of 2015 is withdrawn from the file of the Judge, Family Court, Visakhapatnam, and transferred the same to the Judge, Family Court, Ranga Reddy District, for disposal in accordance with law. The presence of the respondent/husband in F.C.O.P.No.452 of 2015 before the Judge, Family Court, Ranga Reddy District, is dispensed with on each and every date of adjournment. However, he shall appear before the said Court as and when his presence is so required.

13. In view of the orders passed by this Court in Tr.C.M.P.No.343 of 2015, Tr.C.M.P.No.428 of 2015 is dismissed.

As a sequel, miscellaneous petitions, if any, pending in these Transfer Civil Miscellaneous Petitions shall stand closed.

T.SUNIL CHOWDARY, J

21.08.2015

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[1] AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

[2] 2001 (7) Supreme 96

[3] AIR 2002 SC 396