

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.556 of 2014

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw H.M.O.P.No.500 of 2014 from the file of the Family Court, Ranga Reddy District and transfer the same to the file of the Family Court, Eluru, West Godavari District for disposal in accordance with law.

2. Learned counsel for the petitioner submitted that the petitioner being a lady it may not be possible for her to defend the HMOP pending on the file of Family Court, Ranga Reddy District. Learned counsel for the respondent submitted that the Court has to take into consideration the inconvenience likely to be caused to the husband while disposing of the petitions of this nature. He further submitted that most of the witnesses to be examined are residing in Hyderabad city.

3. I have perused the affidavit filed in support of the petition and the counter filed by the respondent. The marriage of the petitioner was performed with the respondent on 11.11.1999 at Narayanapuram village of Unguturu Mandal in West Godavari District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead happy marital life. They lived together for some time in USA and thereafter in Hyderabad. The petitioner lodged a complaint to the Station House Officer, Chebrole Police Station, West Godavari District, who in turn registered a case in Crime No.192 of 2013 against the respondent for the offences punishable under Sections 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. The petitioner also filed DVC No.6 of 2014 against the respondent on the file of the Additional Judicial Magistrate of First Class, Tadepalligudem, West Godavari District. The respondent filed HMOP No.500 of 2014 on the file of Family Court, Ranga Reddy District for dissolution of marriage between him and the petitioner.

4. The material available on record clearly reveals that both the petitioner and respondent have lived together from 1999 to 2013. Out of lawful wedlock, the petitioner and respondent were blessed with two daughters. Unfortunately bad

weather prevailed in their family life. At present, the petitioner is residing at her parents' house at Narayanapuram Village along with her two daughters. Names of witnesses, who will be examined in HMOP No.500 of 2014 in support of the respondent's version, are not disclosed. In matrimonial cases, material witnesses are wife, husband and their respective family members. Inconvenience likely to be caused to the witnesses is not a ground for dismissal of the transfer petition without looking into the other attending circumstances. While deciding this type of petitions, the court has to take into consideration the ground realities as well as the inconvenience likely to be caused to the wife. The distance between Narayanapuram village and L.B.Nagar, Ranga Reddy District is approximately 300 KMs. As rightly pointed out by the learned counsel for the petitioner, it may not be possible for the petitioner to travel 300 KMs along with her children to defend the case on the file of the Family Court, Ranga Reddy District without assistance of a male member. Invariably, the respondent has to attend Tadepalligudem in connection with criminal case and DVC. Even if the petition is allowed, the same may not cause much hardship to the respondent.

5. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao, Sumita Singh v. Kumar Sanjay** and **Rachna Kanodia v. Anuk Kanodia**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, I am of the considered view that the relief sought by the petitioner deserves to be granted.

6. Accordingly, the Transfer Miscellaneous Petition is allowed. H.M.O.P. No.500 of 2014 is withdrawn from the file of the Family Court, Ranga Reddy District and transferred to the file of the Family Court, Eluru, West Godavari District for disposal in accordance with law. As a sequel, miscellaneous petitions, if any filed in this transfer petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 16.06.2015.

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