

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY
TR.CMP No.295 of 2015

ORDER:

This petition is filed under Section 24 of C.P.C to withdraw O.P.No.3 of 2015 from the file of the Senior Civil Judge Court, Nizamabad and transfer the same to the Senior Civil Judge Court, Avanigadda, Krishna District for disposal in accordance with law.

2. Heard both counsel.

3. A perusal of the record reveals that the marriage of the petitioner with the respondent was performed on 12.05.2013 at Mangalapuram Village of Challapalli Mandal, Krishna District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. The respondent is facing trial in C.C.No.86 of 2015 on the file of the Additional Judicial First Class Magistrate, Avanigadda for the offences punishable under Sections 498-A, 506 of IPC and Sections 3 & 4 of Dowry Prohibition Act. The respondent filed O.P.No.3 of 2015 on the file of the Senior Civil Judge Court, Nizamabad for dissolution of marriage between him and the petitioner.

4. The petitioner has been residing at her parents' house in Krishna District due to misunderstandings between her and the respondent. Admittedly the petitioner hails from Krishna District, whereas, the respondent belongs to Nizamabad District. The distance between Nizamabad and Avanigadda is around 500 KMs. It may not be possible for the petitioner to travel from Avanigadda to Nizamabad without the assistance of some male member of the family in order to prosecute O.P.No.3 of 2015 at Nizamabad. Invariably the respondent has to attend the Additional Judicial First Class Magistrate, Avanigadda in view of pendency of C.C.No.86 of 2015.

5. The stand of the respondent that there is a life threat to him

if he goes to Avanigadda is not supported by any material. It is not uncommon to take this type of pleas, more particularly, in matrimonial cases. If the petition is dismissed, it may cause untold hardship to the petitioner. Even if the petition is allowed, the same may not cause any prejudice to the respondent. While disposing of this type of petitions, the Court has to take into consideration the ground realities as well as the hardship likely to be caused to the wife.

6. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao**^[1], **Sumita Singh v. Kumar Sanjay**^[2] and **Rachna Kanodia v. Anuk Kanodia**^[3], 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 can be granted.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.3 of 2015 is withdrawn from the file of the Senior Civil Judge Court, Nizamabad and transferred to the Senior Civil Judge Court, Avanigadda, Krishna District for trial and disposal in accordance with law. No costs.

As a sequel, miscellaneous petitions, if any pending in this civil miscellaneous petition, shall stand closed.

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T.SUNIL CHOWDARY, J.

Date: 14.07.2015.

GvI

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

^[2] AIR 2002 SC 396

^[3] 2001 (7) Supreme 96