

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.709 OF 2015

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ORDER :

This transfer petition is filed to transfer OP No. 1220 of 2013 on the file of the Family Judge, R.R.District to the Court of Senior Civil Judge, at Huzurabad.

2. It is the case of the petitioner that her marriage was solemnized with respondent on 28.07.2002 at Suvarna Function Hall at Penchikalpet village of Elkathurthy Mandal, Karimnagar District as per Hindu rites and customs. After the marriage both of them lived together for some days. As the respondent was harassing the petitioner for additional dowry, she filed a complaint with the Women Police Station, Karimnagar and same was registered as Crime No.34 of 2013 against the respondent and his family members under Sections 498-A, 506 of IPC r/w Sections 3 & 4 of Dowry Prohibition Act and the same is pending. That she was necked out from the matrimonial house. She had no independent source of income and she is depending on the parental family and that is very difficult for her to travel from Huzurabad to Hyderabad for every occasion for attending the OP No.1220 of 2013. The petitioner had also filed O.P.No.28 of 2013 on the file of Senior civil Judge at Huzurabad and DVC No.7 of 2013 on the file of Additional Judicial First Class Magistrate at Huzurabad, which were also pending and that the respondent is attending the Courts at Huzurabad in OP as well as DVC filed by the petitioner/wife. As such, this petition is filed to transfer OP No.1220 of 2013 on the file of the Family Court, R.R.District at L.B.Nagar to the Court of Senior Civil Judge at Huzurabad.

3. Counter affidavit is filed denying the averments in the affidavit filed in support of the petition.

4. Heard both sides.

5. In view of above factual background, I am not inclined to go into the truth or otherwise of the allegations made in the affidavit or counter affidavit of the case as they are not necessary for disposal of this Transfer CMP. It is to be seen whether the OP No.1220 of 2013 filed by the respondent/husband on the file of Family Court, R.R.District is liable to be transferred to the Court of Senior Civil Judge, Huzurabad, to be tried along with O.P.No.28 of 2013 which is filed for restitution of conjugal rights by the petitioner/wife. It is not in dispute that the respondent/husband is attending OP No.28 of 2013 and DVC No.7 of 2013 at Huzurabad. It is the case of petitioner that she is not having any source of income to attend the Court at R.R.District to defend her case in O.P.No.1220 of 2013 filed by the respondent/husband and she is depending on her parental family. To avoid conflicting judgments, both O.Ps filed by petitioner for restitution of conjugal rights and one filed by the respondent for divorce, have to be tried together.

The Hon'ble Supreme Court in ***Sumita Sing v. Kumar Sanjay and another***^[1] held that in transfer of matrimonial proceedings initiated by the husband against wife, it is the convenience of wife that has to be looked at.

In view of above facts and circumstances, I am of the opinion that O.P.No.1220 of 2013 filed by the respondent/husband on the file of the Family Court, R.R.District is liable to be transferred to the Court of Senior Civil Judge, Huzurabad to be tried along with O.P.No.28 of 2013 filed by the petitioner/wife.

Accordingly, the Tr.CMP is allowed. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

31.12.2015
kvs

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 31.12.2015

kvs

[\[1\]](#) AIR 2002 SUPREME COURT 396