

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

TR. C.M.P. No. 783 of 2014

ORDER:

The present Tr. C.M.P. is filed seeking to transfer H.M.O.P.No.49 of 2014 from the Court of the Senior Civil Judge, Gudur, SPSR Nellore District, to the Court of the Senior Civil Judge, Punganur, Chittoor District.

The case of the petitioner is that the respondent is her husband, and after marriage unable to bear his physical and mental harassment and also his family members, she has been staying in the house of her parents at Somala since November, 2012. When the respondent and his family members threatened and tried to kidnap her, she lodged a complaint against them with Somala Police Station which was registered as Crime No.87 of 2013 and also filed M.C.No.16 of 2014 on the file of the Additional Junior Civil Judge, Punganur, Chittoor District for maintenance. In order to escape from the liability of paying maintenance in the above M.C. and to create troubles to her, the respondent filed H.M.O.P.No.49 of 2014 in the Court of the Senior Civil Judge, Gudur, SPSR Nellore District for restitution of conjugal rights. It is also the case of the petitioner that she has no source of income to bear the expenses to prosecute the case filed by the respondent and it will be very difficult for her to attend the Court at Gudur, as she has been pursuing Nursing Course and as there is a life threat in the hands of the respondent. Hence, the present petition.

The respondent filed a counter denying the averments made in the petition. It is stated that the petitioner appeared before the Court at Gudur, and during reconciliation proceedings, she expressed her unwillingness to join his society. He was examined as P.W.1 and got marked Exs.A.1 to A.6 and the matter is coming up for his cross examination. At this stage, the present petition was filed by the petitioner as an afterthought by suppressing the real facts. Therefore, the petition is liable to be dismissed.

The learned counsel for the petitioner submits that the petitioner cannot travel all the way from Somala to Gudur as the distance is 250 kilometers and there is no male assistance to accompany her to attend the Court at Gudur.

On the other hand, the learned counsel for the respondent submits that the respondent was already examined as P.W.1 and got marked Exs.A.1 to A.6 and the matter is coming up for his cross examination. At this stage, it would not be

appropriate to transfer the case. In support of his submissions, he relied on the judgments of the Apex Court in ***Anindita Das Vs. Srijit Das and Neelam Bhatia Vs. Satbir Singh Bhatia.***

It is to be seen that the respondent is residing at Sullurpet, Nellore District which is 75 kilometers away from Gudur where H.M.O.P.No.49 of 2014 is pending on the file of the Senior Civil Judge. According to the petitioner, the distance from Somala to Gudur is 250 kilometers. The distance from Sullurpet to Punganur is 125 kilometers. Therefore, the respondent has to travel another 50 kilometers if the H.M.O.P. is transferred to Punganur, which does not make much difference for him to attend the Court at Punganur where the maintenance case filed by the petitioner is pending. The facts in the above judgments and the facts in the case on hand are different and hence the judgments relied on by the respondent are not applicable to the present case. In view of the same, I am of the view that H.M.O.P.No. 49 of 2014 be withdrawn and transferred from the Court of the Senior Civil Judge, Gudur, Nellore District to the Court of the Senior Civil Judge, Punganur, Chittoor District.

Accordingly, the Tr.C.M.P. is allowed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the Tr.C.M.P. shall stand dismissed.

A. RAJASHEKER REDDY, J.

16th November, 2015

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