

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Tr.CMP No.108 of 2015

ORDER:

1 This petition is filed under Section 24 of CPC seeking to withdraw O.P.No.231 of 2010 pending on the file of the Family Court, Rajahmundry of East Godavari district and transfer the same to the Family Court, Visakhapatnam.

2 The learned counsel for the petitioner submitted that the petitioner, being a lady, is not in a position to attend the Family Court at Rajahmundry.

3 On the other hand, the learned counsel for the respondent submitted that the petitioner filed the present petition with an ulterior motive to harass the respondent.

4 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 13.06.2010 at Dwaraka Tirumala of West Godavari district as per Hindu rites and caste custom. By the time of marriage, the petitioner and the respondent were studying MBBS in G.S.L.Medical College, Rajahmundry. The petitioner lodged a complaint to the Station House Officer Visakhapatnam, who in turn registered a case in Cr.No.87 of 2011. Subsequently the said case was transferred to Rajahmundry on the point of jurisdiction. After completion of investigation, the police laid charge sheet against the respondent under sections 498-A of IPC and sections 3 and 4 of Dowry Prohibition Act. The learned I Additional Judicial Magistrate of I Class, Rajahmundry has taken cognizance of the offence against the respondent and others for the said offences and numbered the same as C.C.No.227 of 2011. The petitioner also filed DVC No.8 of 2011 on the file of IV Additional Chief Metropolitan Magistrate, Visakhapatnam. Subsequently the said case was transferred to II Additional Judicial Magistrate of I Class, Rajahmundry by virtue of the orders passed by this Court in Tr.C.M.P.No.246 of 2011.

5 The respondent filed O.P.No.231 of 2010 on the file of the Family Court, Rajahmundry. The petitioner filed FCOP No.71 of 2015 on the file of the Family Court, Visakhapatnam seeking maintenance from the respondent. A perusal of the record reveals that the petitioner and the respondent lived together for a short period. The O.P.No.231 of 2010 filed by the respondent is pending at Rajahmundry for the last five years. Earlier, the petitioner herein filed Tr.CMP No.254 of 2011 on the file of this Court seeking to transfer O.P.No.231 of 2010 from Rajahmundry to Visakhapatnam and the said Tr.CMP was dismissed by this Court on 04.12.2012 in view of the orders passed by this Court in Tr.CMP.No.246 of 2011. The petitioner did not take steps to challenge the said orders passed by this Court. Therefore, the orders passed by this Court in Tr.CMP No.254 of 2011 became final so far as the petitioner and the respondent are concerned. The petitioner filed the present petition on the ground that FCOP No.71 of 2015 is pending on the file of the Family Court, Visakhapatnam. Mere pendency of Maintenance Case itself is not a valid ground for transfer of O.P.No.231 of 2010. Admittedly, DVC No.8 of 2011 and C.C.No.227 of 2011 are pending at Rajahmundry. The petitioner is the de-facto complainant in those two cases. The petitioner herself knocked the doors of the Courts at Rajahmundry for redressal. For the reasons best known to her, the petitioner filed the present petition seeking transfer of O.P.231 of 2010 from Rajahmundry to Visakhapatnam. While disposing of the petitions of this nature, the Court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings.

6 In view of the orders passed by this Court in Tr.CMP No.246 of 2011, which is the basis for passing of orders in Tr.CMP No.254 of 2011, there are no grounds, much less valid grounds, to allow the present petition.

7 For the foregoing discussion, I see no merits in this petition and accordingly the same is dismissed. However, the presence of the petitioner before the Family Court, Rajahmundry in O.P.No.231 of 2010 is dispensed with for each and every adjournment. But she

shall appear before the said Court as and when her presence is so required. Consequently, miscellaneous petitions, if any, pending in this Tr.CMP shall stand closed.

T. SUNIL CHOWDARY, J

Date: 18.06.2015

Kvsn