

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.Nos.62, 64 and 282 of 2015

COMMON ORDER:

Transfer C.M.P.No.62 of 2015 is filed by the petitioners/husband and in-laws under Section 24 C.P.C., to withdraw F.C.O.P.No.7 of 2015 from the file of the Judge, Family Court, Visakhapatnam and transfer the same to the Court of the Judge, Family Court at Hyderabad.

2. Transfer C.M.P.No.64 of 2015 is filed by the petitioner/husband to withdraw F.C.O.P.No.5 of 2015 from the file of the Judge, Family Court, Visakhapatnam, and transfer the same to the Court of the Judge, Family Court at Hyderabad.

3. Transfer C.M.P.No.282 of 2015 is filed by the petitioner/wife to withdraw F.C.O.P.No.71 of 2015 from the file of the Judge, Family Court, City Civil Courts, Hyderabad, and transfer the same to the Court of the Judge, Family Court, at Visakhapatnam.

4. Two transfer petitions are filed by the husband and one transfer petition is filed by the wife. Hence, I am inclined to pass common order in all the three transfer petitions to avoid confusion. Heard both sides and perused the material available on record. For the sake of convenience, the parties will be referred to as they are arrayed in transfer C.M.P.No.282 of 2015.

5. The marriage of the petitioner was performed with the respondent on 08.12.2013 at Sri Kusuma Haranatha Boga Narasaiah Kalyana Mandapam, Shivam Road, Nallakunta, Hyderabad, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. The respondent filed F.C.O.P.No.71 of 2015 on the file of the Family Court, City Civil

Court, Hyderabad, for dissolution of marriage between him and the petitioner. The petitioner filed F.C.O.P.No.7 of 2015 on the file of the Family Court, Visakhapatnam seeking for return of the dowry articles from the respondent. The petitioner also filed F.C.O.P.No.5 of 2015 on the file of the Family Court, Visakhapatnam, seeking maintenance from the respondent.

6. Learned counsel for the respondent strenuously submitted that the petitioner is temporarily residing at Visakhapatnam. Therefore, the petitions filed by her are liable to be dismissed. Learned counsel for the petitioner submitted that the petitioner has been residing at Visakhapatnam only. Both parties have filed documents in support of their contentions. The respondent filed FIR copy to substantiate his stand, whereas, the petitioner filed AADHAR card to substantiate her case.

7. It is a settled principle of law that while disposing of the transfer petitions, the Court ought not to have express any opinion touching the merits of the main case. If this Court expresses any opinion with regard to the maintainability or other legal aspects, the same may cause prejudice to the parties to the proceedings.

8. Invariably, the respondent has to visit Visakhapatnam to prosecute F.C.O.P.No.5 of 2015 and F.C.O.P.No.7 of 2015. While deciding the petitions of this nature, the Court has to take into consideration the ground realities and inconvenience likely to be caused to the parties to the proceedings, more particularly, the wife. It may not be possible for the petitioner to travel 700 kilometers from Visakhapatnam to Hyderabad without the assistance of some male member of the family.

9. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao**^[1], **Rachna Kanodia v. Anuk Kanodia**^[2], and **Sumita Singh v.**

Kumar Sanjay^[3], the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

10. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that the petitioner deserves the relief sought for. Learned counsel for the respondent submitted that the respondent being a software engineer, it may not be possible for him to attend the Family Court at Visakhapatnam, on each and every date of adjournment. Even if the presence of the respondent is dispensed with, the same may not cause any prejudice to the petitioner.

11. Accordingly, the Transfer C.M.P.No.282 of 2015 filed by the wife is allowed. Transfer C.M.P.Nos.62 of 2015 and 64 of 2015 are dismissed. F.C.O.P.No.71 of 2015 is withdrawn from the file of the Judge, Family Court, City Civil Court, Hyderabad, and transferred to the file of the Judge, Family Court, Visakhapatnam, for disposal in accordance with law. The presence of the respondent/husband is dispensed with in F.C.O.P.No.5 of 2015 and F.C.O.P.No.7 of 2015 before the Judge, Family Court, Visakhapatnam, on each and every date of adjournment. However, he shall appear before the Judge, Family Court, Visakhapatnam in F.C.O.P.Nos.5 and 7 of 2015 as and when his presence is so required. As a sequel, miscellaneous petitions, pending if any in all the three transfer petitions, shall stand closed.

T.SUNIL CHOWDARY, J

Date:06.07.2015.

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

[\[2\]](#) 2001(7) Supreme 96

[\[3\]](#) AIR 2002 SC 396