

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.278 of 2015

ORDER:

This petition is filed under Section 24 CPC to withdraw O.S. No.41 of 2015 from the file of Principal Junior Civil Judge, Bapatla and transfer the same to the file of Family Court, City Civil Courts, Secunderabad, for disposal in accordance with law.

2. Heard the learned counsel for both the parties and perused the material available on record.

3. The marriage of the petitioner was performed with the respondent on 05.6.2009 at China Matlapudi Village of Nagaram Mandal in Guntur District, as per Muslim rites and caste customs. Immediately after the marriage, petitioner joined the respondent to lead marital life. Out of lawful wedlock, they were blessed with a daughter. The petitioner filed DVC No.106 of 2013 against the respondent and the same is pending on the file of IV Additional Metropolitan Magistrate, Hyderabad at Erramanzil. The petitioner also filed M.C. No.22 of 2013 on the file of Family Court, Secunderabad seeking maintenance from the respondent. The respondent is facing trial in C.C. No.302 of 2013 on the file of XV Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, for the offences under Sections 498-A and 406 IPC and Sections 4 and 6 of Dowry Prohibition Act.

4. The petitioner has been residing at her parents' house in Secunderabad along with her daughter, due to misunderstandings between her and the respondent. Three cases are pending between the parties in different Courts of Hyderabad and Secunderabad. It is not the case of the respondent that the petitioner is having sufficient means to maintain herself, her daughter and defend the suit at Bapatla. The distance between Secunderabad and Bapatla is about 320 KMs. It may not be possible for the petitioner to travel from

Secunderabad to Bapatla without assistance of one of the male members of the family. 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.

5. As per the principle enunciated in **Sumita Singh v. Kumar Sanjay**^[1] and **Rachna Kanodia v. Anuk Kanodia**^[2], 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.

6. Accordingly, the Transfer CMP is allowed. O.S. No.41 of 2015 is withdrawn from the file of Principal Junior Civil Judge, Bapatla and transferred to the file of Family Court, City Civil Courts, Secunderabad, for disposal in accordance with law. As a sequel, miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 01.7.2015.
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^[1] AIR 2002 SC 396

^[2] 2001 (7) Supreme 96