

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.527 OF 2015

ORDER:

This transfer petition is filed seeking transfer of OS.No.53 of 2015 pending on the file of Junior Civil Judge Court, Kanigiri to any of the Junior Civil Judge Courts at Secunderabad.

The case of the petitioner is that her marriage with the respondent was performed on 22.12.2011 at Kanigiri as per the Islamic Law, Rules and Customs; that after the marriage they shifted their family to Hyderabad for the purpose of searching job and that since the respondent is jobless, petitioner's father spent the entire expenditure for nearly about five months for running their family. It is also stated that in the month of September the respondent left the house without any intimation to the petitioner for a period of six months. But, petitioner's parents somehow contacted the respondent and his family and brought the petitioner to her in-laws house in Kanigiri. Thereafter, both the petitioner and respondent stayed for eighteen months, together. While so, in the month of March 2014 the respondent got a job at Banglore and left for Banglore leaving the petitioner at his parents and also developed illegal intimacy with some other lady at Banglore. As such, the petitioner left the house of her in-laws in November, 2014 and residing along with her parents at Secunderabad. Meanwhile, the respondent filed OS.No.53 of 2015 for dissolution of the marriage on the ground that he pronounced 'Talaq' to the defendant on 04.01.2015. The grievance of the petitioner is that it is very difficult for her to attend the Court at Kanigiri on every date of hearing without any male assistance and also apprehend danger to her life as previously her in-laws made an attempt to kill her by

applying electric shock and that it involves both physical and financial burden. As such, the petitioner sought transfer of OS.No.53 of 2015 pending on the file of the Court of Junior Civil Judge, Kanigiri to any of the Junior Civil Judge Courts at Secunderabad.

Counter is filed by the respondent admitting the marriage between him and the petitioner. It is stated that the petitioner used to leave the house of the respondent without there being any consent either from the respondent or his parents and without their knowledge and used to go to her parents house at Hyderabad on her own accord by harassing the respondent and his family and that due to the attitude of the petitioner he was constrained to pronounce 'Talaq' on 04.01.2015 and the same was communicated to the petitioner on 05.03.2015 duly enclosing Demand Draft for Rs.6,000/- obtained from Canara Bank for 'Iddat' period of three months through registered post and the same was returned with endorsement 'unclaimed'. It is also stated that the father of the petitioner is working as a Head Constable in CBCID at Hyderabad and is a very influential person and that there is a life threat to him in the event of attending the Court at Secunderabad, if the suit is transferred from Kanigiri to Secunderabad Court.

Heard learned counsel for the petitioner as well as respondent who made their submissions in tune with their pleadings.

In this case, the respondent/husband is working at Banglore and the petitioner states that she is living with her parents at Secunderabad. The suit filed by the respondent is pending at Kanigiri and the respondent has to travel from Banglore to Kanigir

to attend the Court proceedings in OS.No.53 of 2015. If the suit is transferred to Hyderabad from Kanigiri, it will be more convenient for the respondent to attend the Court at Hyderabad. Though it is stated that there is life threat to the respondent, no complaint is made by him till today. Further the Apex 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. Keeping in view the difficulty expressed by the petitioner and the Judgment of Supreme Court, I deem it proper to transfer OS.No.53 of 2015 to Hyderabad.

Accordingly, the Tr.CMP is allowed and the OS.No.53 of 2015 pending on the file of the Court of Junior Civil Judge, Kanigiri, Prakasam District is transferred to the Junior Civil Judge Court, City Civil Court, Secunderabad. No order as to costs.

Though jurisdiction aspect is raised with regard maintainability of the transfer petition, since the same is not pressed, the matter is disposed of on merits.

As a sequel thereto, miscellaneous petitions, if any pending in the transfer petition, shall stand closed.

A.RAJASHEKER REDDY, J

08.12.2015
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^[1] AIR 2002 SUPREME COURT 396