

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.373 OF 2015

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ORDER:

This transfer petition is filed by the petitioner against the respondent/husband for transfer of FC.OP No.829 of 2014 pending on the file of Family Court, Vijayawada to the Court of Senior Civil Judge at Narsapuram, West Godavari District.

The case of the petitioner is that her marriage with the respondent was performed on 13.11.2013 at Sri Venkateshwara Swamy Temple, Kapavaram Village, West Godavari District as per Hindu rites and customs; that the marriage was consummated and no issues were born; and that after the marriage the respondent and his mother and sister started harassing the petitioner demanding additional dowry and that ultimately the petitioner was necked out from the matrimonial home. It is also stated that as the petitioner has no other go she filed a private complaint against the respondent and his family members under Section 498A, 323 and 3& 4 of the Dowry Prohibition Act, 1961 and the same was registered as Crime No.181/2014 and that the petitioner also filed petition under Section 125 Cr.P.C. claiming maintenance from the respondent vide MC.No.9 of 2015 and the same is pending on the file of Additional Judicial First Class Magistrate, Palakol. It is further stated that the respondent received the notice in the MC and also engaged an advocate. Meanwhile, the respondent filed divorce OP.No.829 of 2014 and the same is pending on the file of Family Court at Vijayawada. The grievance of the petitioner is that she is staying with her parents at Kapavaram Village, Palakol Mandal, west Godavari District and it is very difficult for her to travel about 130 kilometers on every date of hearing without any

male assistance and that it involves both physical and financial burden. As such, the petitioner sought transfer of FC.OP.No.829/2014 pending on the file of Family Court, Vijayawada to the Court of the Senior Civil Judge at Narsapuram, West Godavari District.

This court on 10.07.2015 ordered notice permitting the petitioner to take out personal notice to the respondent and also granted interim stay. When the matter is listed on 19.08.2015, it is reported that the notice sent to the respondent was returned with an endorsement that 'addressee expired'. When the matter is listed on 12.11.2015, the learned counsel for the petitioner stated that the respondent has been attending the Court from 27.02.2015 on wards in MC.No.9 of 2015 which is pending on the file of Additional Judicial First Class Magistrate, Palkol and that this Court passed an order calling report from the Additional Judicial First Class Magistrate, Palkol as to whether the respondent is attending the proceedings in the aforesaid MC filed by the petitioner herein and also directed the Superintendent, Postal Department, Krishna District to cause enquiry in the matter.

Today, when the matter is listed, the report pertaining to the docket orders in MC.No.9/2015 as well as CC.No.40/2015 sent by the Judicial Magistrate of First Class is placed before this Court wherein it is stated that the respondent attended the proceedings in MC.No.9/2015 on 13.07.2015, 19.08.2015, 04.09.2015, 28.09.2015, 23.10.2015, 07.11.2015 and 23.11.2015. It is also reported that the respondent also attended the proceedings in CC.No.40 of 2015 on 13.07.2015, 20.08.2015, 04.09.2015, 28.09.2015, 23.10.2015, 07.11.2015 and 23.11.2015.

The Sr.Superintendent of Post Offices also submitted a report simply reiterating endorsement made by the Post Man which goes to show that the Sr.Superintendent is not serious enough towards the orders of this Court and the respondent is trying to evade the notices from this Court.

Since the respondent who attended the proceedings in MC and CC before the Court below, knowing fully well of the stay of the said proceedings granted by this Court, did not choose to appear this Tr.CMP. As such, it is deemed that notice is served on the respondent. Further, since the petitioner stated that the Court at Vijayawada where the respondent instituted divorce OP, is 130 kilometers away from Palkol and that she cannot travel all the way from Palkol without male assistance and in view of the Judgment of the Apex Court in Court in ***Sumita Sing v. Kumar Sanjay and another***^[1] wherein it is 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, I deem it proper to transfer FC.OP No.829 of 2014 pending on the file of Family Court, Vijayawada to the Court of Senior Civil Judge at Narsapuram, West Godavari District.

Accordingly, the Tr.CMP is allowed and the FC.OP.No.829 of 2014 pending on the file of Family Court, Vijayawada is transferred to the court of Senior Civil Judge at Narsapuram, West Godavari District. No order as to costs.

The report sent by the Judicial Magistrate of First Call Court, Palkol indicate that the respondent was attending the Court proceedings on all the dates of hearing in MC No.9 of 2015 and CC No.40 of 2015 from 13.07.2015 to 23.11.2015 which goes to show

that the respondent managed the local postal authorities in getting the endorsement on the postal cover that the respondent expired.

In view of the same, office is directed to communicate the copy of the report dated 26.11.2015 submitted by the Sr.Superintendent of Post Offices, Vijayawada Division, Vijayawada along with orders passed by this Court on 12.11.2015, to the Director of Postal Services, Vijayawada for causing the enquiry in the matter and submission report, as the Sr.Superintendent has not taken the matter seriously as per the orders of this Court on 12.11.2015.

As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed.

A.RAJASHEKER REDDY, J

16.12.2015
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[\[1\]](#) AIR 2002 SUPREME COURT 396