

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY
Tr.CMP No.267 of 2015

ORDER:

1 This petition is filed under Section 24 of CPC seeking to withdraw H.M.O.P.No.276 of 2015 pending on the file of t h e I V Additional District Judge-cum-Family Court, Vijayawada and transfer the same to the Family Court-cum-V Additional District Judge, Visakhapatnam.

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

3 The marriage of the petitioner was performed with the respondent on 02.06.2011 at Visakhapatnam as per Hindu rites and caste custom. Immediately after the marriage, the petitioner joined the respondent to lead happy marital life. Out of the lawful wedlock, the petitioner and the respondent were blessed with a daughter. For obvious reasons disputes arose between the petitioner and the respondent. Basing on the complaint lodged by the petitioner, the Station House Officer, P.M. Palem Police Station, Visakhapatnam registered a case in Cr.No.293 of 2015 against the respondent for the offences punishable under Section 498-A and 506 of IPC and Sections 3 and 4 of Dowry Prohibition Act. The petitioner filed FCOP No.604 of 2015 on the file of the Family Court, Visakhapatnam seeking maintenance from the respondent. The respondent filed H.M.O.P.No.276 of 2015 on the file of the Court of the IV Additional District Judge, Vijayawada for restitution of conjugal rights.

4 The petitioner has been residing at Visakhapatnam at her parents' house along with her daughter. The distance between Vijayawada and Visakhapatnam is 350 K.M. Invariably, the respondent has to attend the Family Court and Criminal Court at Visakhapatnam to contest the cases. As rightly pointed out by the learned counsel for the petitioner, it may not be possible for the petitioner to travel all the way from Visakhapatnam to Vijayawada without the support of a male person in the family. If the H.M.O.P. is transferred, the same will not cause any prejudice to the respondent.

5 While deciding the petitions of this nature, the Court has to taken into consideration the inconvenience likely to be caused to the wife. As per the principle enunciated in ***Sumita Singh Vs. Kumar Sanjay***^[1], ***Rachna Kanodia Vs. Anuk Kanodia***^[2], and ***V. Sailaja Vs. V. Koteswara Rao***^[3], 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 cases cited supra, I am of the considered view that the petitioner deserves the relief as sought for.

6 In the result, the petition is allowed and the H.M.O.P.No.276 of 2015 pending on the file of the IV Additional District Judge-cum-Family Court, Vijayawada is withdrawn from the file of that Court and transferred to the Family Court-cum-V Additional District Judge,

Visakhapatnam for trial and disposal in accordance with law.

However, the presence of the respondent before the Family Court, Visakhapatnam in connection with the H.M.O.P.276 of 2015 is dispensed with for each and every adjournment. However, he shall appear before the Family Court-cum-V Additional District Judge, Visakhapatnam as and when his presence is so required. Consequently, miscellaneous petitions, if any, pending in this Tr.CMP shall stand closed.

T. SUNIL CHOWDARY, J

Date: 27.08.2015

Kvsn

[\[1\]](#) AIR 2002 SC 396

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

[\[3\]](#) AIR 2003 AP 178