

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.287 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.24 of 2014 from the file of the Judge, Family Court, Vijayawada, and transfer the same to the court of Senior Civil Judge, at Kakinada, East Godavari District, for disposal in accordance with law.

2. In spite of service of notice, the respondent did not choose to appear before the Court and contest the matter. Heard the learned counsel for the petitioner and perused the material available on record.

3. The marriage of the petitioner was performed with the respondent on 03.01.2013 at Kakinada, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. The respondent is facing trial in C.C.No.450 of 2014 on the file of the V Additional Judicial Magistrate of First Class, Kakinada, for the offences punishable under Sections 498-A, 34 IPC and 3 and 4 of the Dowry Prohibition Act. The respondent filed O.P.No.24 of 2014 on the file of the Family Court, Vijayawada, for dissolution of marriage between him and the petitioner. The petitioner has been residing at Kakinada at her parents house due to misunderstandings between her and the respondent. Even as per the recitals in O.P.No.24 of 2014, at present the petitioner is residing at her parents house at Kakinada. The distance between Kakinada and Vijayawada is nearly 270 kilometers. It may not be possible for the petitioner to travel 270 kilometers to prosecute O.P.No.24 of 2014 at Vijayawada without the assistance of one of the male members of the family. Invariably, the respondent has to attend the court of Judicial Magistrate of First Class, Kakinada in view of the

pendency of C.C.No.450 of 2014. Even if the petition is allowed, the same may not cause any prejudice to the respondent. While disposing the petitions of this nature, the Court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings, more particularly, the wife.

4. 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.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am inclined to allow the petition.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.24 of 2014 is withdrawn from the file of the Judge, Family Court, Vijayawada, and transferred to the file of the Senior Civil Judge, Kakinada, East Godavari District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Date:14.07.2015.

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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