

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP No.162 of 2015

ORDER:

This petition is filed under Section 24 of C.P.C to withdraw O.P.No.2 of 2015 from the file of the Senior Civil Judge, Karimnagar and transfer the same to the Family Court at Warangal for disposal in accordance with law.

2. Heard both counsel.

3. A perusal of the record reveals that the marriage of the petitioner with the respondent was performed on 27.03.2003 at Hanamkonda as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with 3 children. The petitioner filed M.C.No.33 of 2010 on the file of the Family Court, Warangal seeking maintenance from the respondent for herself and for her children and the same was allowed. The respondent filed O.P.No.2 of 2015 on the file of the Senior Civil Judge, Karimnagar for dissolution of marriage between him and the petitioner.

4. The petitioner has been residing at her parents' house at Hanamkonda along with her 3 children since 2006. The distance between Karimnagar and Hanamkonda is around 75 KMs. It may not be possible for the petitioner to travel from Hanamkonda to Karimnagar along with her 3 children. It is not the case of the respondent that the petitioner is having sufficient means to maintain herself, her 3 children and to travel from Hanamkonda to Karimnagar. Learned counsel for the respondent submitted that there is a life threat to the respondent if he visits Hanamkonda. The fact remains that the respondent herein appeared in M.C.No.33 of 2010. There is no material on record to establish that the petitioner threatened the respondent with dire consequences. M.C.No.33 of 2010 is pending on the file of the Family Court, Warangal. It is not uncommon to take this type of stand in

matrimonial cases. There is no material much less cogent and convincing material to substantiate the stand taken by the respondent. If the petition is dismissed, it may cause untold hardship to the petitioner and her children. Even if the petition is allowed, the same may not cause any prejudice to the respondent. While disposing of this type of petitions, the Court has to take into consideration the ground realities as well as the hardship likely to be caused to the wife.

5. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao**^[1], **Sumita Singh v. Kumar Sanjay**^[2] and **Rachna Kanodia v. Anuk Kanodia**^[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 case cited supra, I am of the considered view that the relief sought by the petitioner can be granted.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.2 of 2015 is withdrawn from the file of the Senior Civil Judge Court, Karimnagar and transferred to the Family Court at Warangal for trial and disposal in accordance with law. No costs.

As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

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T.SUNIL CHOWDARY, J.

Date: 23.06.2015.

GvI

^[1] AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

^[2] AIR 2002 SC 396

^[3] 2001 (7) Supreme 96