

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Tr.CMP No.817 of 2014

ORDER:

1 This petition is filed under Section 24 of CPC seeking to withdraw HMOP No.66 of 2013 from the file of Principal Senior Civil Judge, Gudivada and transfer the same to the Court of Principal Senior Civil Judge, Narsaraopet.

2 The facts leading to filing of the present petition are as follows:

3 The marriage of the petitioner and the respondent was performed on 04.11.2009 at Kapu Kalyanamantapam, Gudivada as per Hindu rites and caste custom. Immediately after the marriage, the petitioner joined the respondent to lead happy marital life. Out of lawful wedlock, they were blessed with a daughter, who is now aged about 3 ½ years. After lapse of three years of happy marital life, unfortunately disputes arose between the petitioner and the respondent, because of which, now the petitioner is residing at her parents house in Chilakaluripet. The petitioner lodged a complaint to the Station House Officer, Chilakaluripet Town Police station, who in turn registered a case in Cr.No.105 of 2013 for the offences punishable under Section 498-A of IPC and Sections 3 and 4 of the Dowry Prohibition Act against the petitioner and others. After completion of investigation and upon filing of the charge sheet, the learned Additional Judicial Magistrate of I Class, Chilakaluripet, has taken cognizance of the offence under Section 498-A of IPC and Sections 3 and 4 of the Dowry Prohibition Act and numbered it as C.C.No.161 of 2013. The petitioner also filed M.C.No.1 of 2013 against the respondent seeking maintenance and the same is pending on the file of the Court of the Additional Judicial Magistrate of I Class, Chilakaluripet. While the things stood thus, the respondent filed HMOP No.66 of 2013 against the petitioner on the file of the Principal Senior Civil Judge, Gudivada for dissolution of marriage between them. Hence the petition.

4 The learned counsel for the petitioner submitted that due to financial problems, the petitioner is not in a position to attend the Court at Gudivada hence the HMOP No.66 of 2013 filed by the respondent on the file of the Principal Senior Civil Judge, Gudivada may be transferred to the Court of Principal Senior Civil Judge, Narsaraopet, which is nearer to Chilakaluripet.

5 On the other hand, the learned counsel for the respondent submitted that the petitioner has foisted a false case against the respondent at Chilakaluripet.

6 As per the averments made in the petition, at present, the petitioner is residing at her parents' house at Chilakaluripet along with her daughter aged about 3 ½ years. It is not the case of the respondent that the petitioner has any source of income. The distance between Chilakaluripet and Gudivada is more than 100 k.m. In that view of the matter, it may not be possible for the petitioner to travel all the way from Chilakaluripet to Gudivada that too without the assistance of any male person. While deciding petitions of this nature, the Court has to taken into consideration the inconvenience likely to be caused to the wife. In any event, the respondent has to attend the criminal Court at Chilakaluripet in C.C.No.161 of 2013 and M.C.No.1 of 2013. If the petition is not transferred, it will certainly cause untold hardship and inconvenience to the petitioner. Even if the petition is transferred, the same may not cause any prejudice to the respondent.

7 As per the principle enunciated in **Sumita Singh Vs. Kumar Sanjay, Rachna Kanodia Vs. Anuk Kanodia**, and **V. Sailaja Vs. V. Koteswara Rao**, 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.

8 In the result, the petition is allowed and the HMOP No.66 of 2013 pending on the file of Principal Senior Civil Judge, Gudivada is withdrawn from the file of the said Court and the same is transferred to the Court of Principal Senior Civil Judge, Narsaraopet, Guntur District for trial and disposal in accordance with law. However, the appearance of the respondent before the Court of Principal Senior Civil Judge, Narsaraopet is dispensed with on each and every adjournment in HMOP No.66 of 2013, but he shall appear before the said Court 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: 05.06.2015

Kvsn