

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.152 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw H.M.O.P.No.63 of 2014 from the file of the Senior Civil Judge Court, Rajampet, Kadapa District and transfer the same to the file of Senior Civil Judge Court, Nellore, SPSR Nellore District for disposal in accordance with law.

2. Learned counsel for the petitioner submitted that it is very difficult for the petitioner to travel from Atmakur in Nellore District to Rajampet. Learned counsel for the respondent submitted that the respondent being an employee, it is very difficult for him to attend the Court at Nellore if the matter is transferred to Nellore.

3. I have perused the material available on record. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 17.10.2010 at Andhra Kalyana Mandapam, Rajampet, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead happy marital life. Out of lawful wedlock, they were blessed with a daughter. For obvious reasons, disputes arose between the parties to the proceedings. The petitioner lodged a complaint to the Station House Officer, Atmakur Police Station, who in turn registered a case in Crime No.64 of 2013 against the respondent and others for the offences punishable under Sections 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. After completion of investigation, the Investigating Officer laid charge sheet against the respondent and others. After going through the material available on record, learned Judicial Magistrate of First Class, Atmapur has taken cognizance against the petitioner and others under the above sections of law and numbered the charge sheet as C.C. No.93 of 2013. The petitioner also filed DVC No.4 of 2013 against the respondent on the file of Judicial Magistrate of First Class, Atmakur. The respondent filed H.M.O.P. No.63 of 2014 on the file of the Senior Civil Judge Court, Rajampet seeking dissolution of marriage between him and the petitioner. Due to family disputes, the petitioner has been residing at her parents' house at Nalapareddy Palli Village of Atmakur Mandal in SPSR Nellore District along with her daughter.

4. At the time of the arguments, learned counsel for the petitioner submitted that the respondent filed Criminal Appeal No.12 of 2014 challenging the orders passed in DVC No.4 of 2013. The respondent has to prosecute Criminal Appeal No.12 of 2014 which is pending on the file of IV Additional District and Sessions Judge, Nellore. C.C. No.93 of 2013 is also pending on the file of Judicial Magistrate of First Class, Atmakur. Invariably, the respondent has to attend those cases. The petitioner being a lady, it may not be possible for her to attend the Court at Rajampet along with her daughter aged about 2 years. If the petition is dismissed, it may cause untold hardship to the petitioner. 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, Sumita Singh v. Kumar Sanjay** and **Rachna Kanodia v. Anuk Kanodia**, 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 Miscellaneous Petition is allowed. H.M.O.P. No.63 of 2014 is withdrawn from the file of the Senior Civil Judge Court, Rajampet and transferred to the file of the Family Court, Nellore, for disposal in accordance with law. Taking into consideration the nature of employment of the respondent, his presence before the Family Court, Nellore in connection with H.M.O.P. No.63 of 2014 on each and every date of adjournment is dispensed with. However, he shall appear before the court as and when his presence is specifically required. As a sequel, miscellaneous petitions, if any filed in this transfer petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 16.06.2015.

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