

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

Tr.CMP No.180 of 2015

ORDER:

1 This petition is filed under Section 24 of CPC seeking to withdraw O.P.No.49 of 2014 pending on the file of the Court of the Senior Civil Judge, Nalgonda and transfer the same to the Family Court, Hyderabad.

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 04.01.2003 at Sri Sai Baba temple, Nakrekal as per Hindu rites and caste custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For obvious reasons, disputes arose between the petitioner and the respondent. Basing on the complaint lodged by the petitioner, the Station House Officer, W.P.S, C.C.S., Hyderabad registered a case in Cr.No.159 of 2014 against the respondent and others for the offences punishable under Section 498-A and 106 of IPC and Sections 4 and 6 of Dowry Prohibition Act. The respondent is also facing trial in DVC No.158 of 2014 on the file of IV Metropolitan Magistrate, Erramanzil, Hyderabad. The petitioner also filed M.C.No.238 of 2014 on the file of Additional Family Court, Red Hills, Hyderabad seeking maintenance from the respondent. The petitioner is residing at Hyderabad. The respondent filed O.P.No.49 of 2014 on

the file of the Senior Civil Judge, Nalgonda for restitution of conjugal rights. In that view of the matter, the petitioner may face some difficulty to attend Senior Civil Judge Court, Nalgonda in order to prosecute the O.P.No.49 of 2014.

However, the respondent, invariably, has to attend different Courts at Hyderabad in view of pendency of DV Case, Maintenance Case and a criminal case.

4 While deciding the petitions of this nature, the Court has to take 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.

Moreover, even if the presence of the respondent is dispensed with, the same may not cause any prejudice to the petitioner.

5 In the result, the petition is allowed, O.P.No.49 of 2014 pending on the file of the Court of the Senior Civil Judge, Nalgonda is withdrawn from the file of that Court and transferred to the Family Court, Hyderabad for trial and disposal in accordance with law. However, the presence of

the respondent before the Family Court, Hyderabad in connection with the O.P.49 of 2014 is dispensed with for each and every adjournment. However, the respondent shall appear before the Family Court, Hyderabad 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: 23.09.2015
Kvsn

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

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

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