

HON'BLE SRI JUSTIC S.RAVI KUMAR

TR.CMP No.554 of 2014

ORDER

This petition is filed to withdraw HMOP No.40 of 2014 from Senior Civil Judge, Chirala, and transfer the same to Family court, Kurnool.

Wife filed this petition. According to her affidavit, their marriage was performed on 13.2.2013 and due to disputes, she lodged a complaint with Vetapalaem Police Station and the same was registered as Cr.No.138 of 2013 and subsequently charge sheet was filed. She further stated that respondent-husband filed petition for restitution of conjugal rights before Senior Civil Judge, Chirala and mother of the petitioner is an employee in Railway Department and she is now posted at Chennai and that the petitioner is native of Kurnool, she is staying at Kurnool and it is difficult for her to travel to Chirala for defending the OP and that there is no male assistance to escort her to Chirala for prosecuting the OP and prayed for transfer of OP.

Husband filed counter disputing the averments of the petition. It is contended that the petitioner is residing at Chennai at the time of marriage and the petitioner's uncle is residing at Nandyal, Kurnool. It is further contended that it is equally inconvenient for the respondent-husband to attend Kurnool and prayed for dismissal of the petition.

Heard both sides.

Both sides advocates submitted their arguments supporting respective contentions of their clients. I have perused the material papers filed along with the Transfer CMP and counter.

As seen from the record, HMOP is filed for restitution of conjugal rights before Senior Civil Judge, Chirala, where presence of parties is not required for each and every adjournment as they can be represented by advocates unlike in Family Court. Since the presence of petitioner herein is not required for every

adjournment, her contention that it is difficult for her to attend the Court at Chirala, for every adjournment cannot be accepted. At best presence of the petitioner is required only at the time of her evidence and even at that time, if she feels any inconvenience or apprehension as indicated in the transfer CMP, she can request the trial Court for appointment of a Commissioner to record her evidence at her residence by showing sufficient reasons. Therefore, the grounds urged in the application are not sufficient for transfer of the petition.

With above observations, the Transfer CMP is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Transfer CMP shall stand closed.

JUSTIC S.RAVI KUMAR

2nd April, 2015

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