

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.689 of 2015

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ORDER:

This Transfer CMP is filed to withdraw OP.No.70 of 2014 from the file of Judge, Family Court, Vijayawada, Krishna District and transfer the same to the Court of Senior Civil Judge at Addanki, Prakasam District.

The case of the petitioner is that her marriage with the respondent took place on 22.05.2013 as per Hindu rites and customs at Dwaraka Tirumala, Eluru, West Godavari District and that after the marriage the petitioner joined the company of the respondent. Thereafter, the respondent started harassing the petitioner for additional dowry and the petitioner filed a complaint, which was registered in Cr.No.153 of 2015 for the offences under Section 498 A, 323 IPC and Sections 3 and 4 of Dowry Prohibition Act. Later when the respondent is not maintaining, the petitioner filed MC.No.31 of 215 and the same is pending on the file of Additional Judicial Magistrate of First Class, Addanki, Prakasam District and thereafter, the respondent filed OP.No.70 of 2014 on the file of Family Court, Vijayawada, seeking divorce. The grievance of the petitioner is that she is cannot travel all the way from Prakasam District to Vijayawada for defending the OP filed by the respondent as she hails from a poor family and does not have male assistance to move from her place to Vijayawada to defend the present OP. As such, the present Transfer CMP is filed.

The respondent filed counter affidavit denying the allegations made against the respondent and states that the petitioner herself left the matrimonial home at her own accord without his knowledge and consent and that though mediation was conducted, she was reluctant to join the respondent and deserted the respondent voluntarily and staying at her parents house and as such the respondent was forced to file divorce petition on the ground of cruelty, before the Family Court, Vijayawada. It is further stated that the respondent is

having old aged parents and he has to look after their welfare and also attend to them, as such, sought for dismissal of transfer petition.

In this case, it is to be seen that MC.No.31 of 2015 is pending on the file of Additional Judicial Magistrate of First Class, Addanki, Prakasam District and also criminal proceedings pending at Addanki and the respondent has to attend both. More so, the petitioner states that she is very poor and does not have male assistance to move from her place to Vijayawada to defend in OP.No.70/2014.

Further, the Apex Court in ***Sumita Sing v. Kumar Sanjay and another*** held that in transfer of matrimonial proceedings initiated by the husband against wife, it is the convenience of wife that has to be looked at.

In view of the same, OP.No.70/2014 pending on the file of Family Court, Vijayawada, Krishna District be transferred to the Court of Senior Civil Judge, Addanki, Prakasam District.

Accordingly, the Transfer CMP is allowed. However, the presence of the respondent may not be insisted for every adjournment in OP.No.70/2014, by the Senior Civil Judge, Addanki, except on the dates of conciliation and cross-examination or on any other date the Court below feels necessary. It is also open for the respondent to request the Court of Additional Judicial Magistrate of First Class, Addanki, where MC No.31/2015 is pending and the Court of Senior Civil Judge, Addanki, to which the OP.No.70/2014 is transferred, for posting of both the matters on the same dates. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the transfer petition, shall stand closed.

A.RAJASHEKER REDDY, J

21.12.2015

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