

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

TR.CMP No.431 of 2013

Date:13.02.2015

Between:

Karri Satyavathi

...Petitioner.

AND

Karri Gneswara Reddy

...Respondent.

The Court made the following:

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

TR.CMP No.431 of 2013

ORDER:

This petition is filed to transfer H.M.O.P.No.149/2012 from Senior Civil Judge, Bhimavaram and transfer to any competent Court at Tanuku for disposal in accordance with law.

2. Petitioner is wife and according to her affidavit, her marriage took place on 12-04-1996 and due to disputes, she is now staying at her parents house and that she gave a complaint for offence under Section 498-A, 403 & 506 read

with 34 IPC and also filed D.V.C., before II Additional Judicial First Class Magistrate, Tanuku and the respondents, without any justifiable grounds, filed H.M.O.P.No.149/2012 before Senior Civil Judge, Bhimavaram seeking for divorce. She stated that it is difficult for her to go to Bhimavaram and she apprehends danger to her life in the hands of respondent/husband. She stated that by considering her convenience, H.M.O.P.No.2012 may be transferred from Bhimavarm Court.

3. Other side has not filed any counter.

4. Heard arguments of both sides.

5. Advocate for petitioner submitted that as the respondent husband is attending Tanuku Court in connection of D.V.C and criminal case, no prejudice will be caused, if the H.M.O.P is also transferred to Tanuku so that all the cases can be at one place.

6. Advocate for respondent submitted that since the transfer is within the district and as District Judge has also power under Section 24, without approaching the District Judge, the petition is not maintainable before this Court. He further submitted that respondent has no means now and it is difficult for him to go to Tanuku from Bhimavaram. Considering these aspects, he submitted that the application has to be dismissed.

7. Now the point that would arise for my consideration in this appeal is whether request of the petitioner for transfer of H.M.O.P can be considered.

8. The first objection of the respondent is that as this petition can be filed before the District Court also present application in this Court is not maintainable. For this, Advocate for petitioner submitted that under Section 24 CPC, there is concurrent jurisdiction for both the Courts and it is for the party to invoke the jurisdiction of their choice. I have perused the provisions of Section 24 CPC and as rightly pointed out by Advocate for petitioner, there is a concurrent jurisdiction under Section 24, both for the District Court and the High Court. Advocate for petitioner submitted that at the time of filing of this petition, as there was strike in Andhra area, party approached this Court.

No doubt normally, the parties will be asked to approach the lowest Court first before approaching the higher Court, but in a given circumstance such normal practice can be waived. According to petitioner Advocate due to strike in Andhra Region, party could not approach the District Court, which fact is not disputed by other side. When there is a concurrent jurisdiction for both the Courts, a party can invoke jurisdiction of any Court and it is ultimately the discretion of the party, therefore, the objection with regard to maintainability cannot be sustained.

9. Now coming to the facts, admittedly wife filed D.V.C

No.7/2012 before II Additional Judicial First Class Magistrate, Tanuku and respondent/husband is attending that case. It is also clear from the affidavit of the wife that she lodged a complaint with police and a 498-A case is also pending there and the husband is attending for that case also. So the objection of the respondent that he has no means to travel from Bhimavaram to Tanuku cannot be accepted, because he is bound to attend the other two cases irrespective of transferring this case. When two cases are pending at the same place and it would be convenient for both parties, if the third case pending in a different Court is also brought to the place where the other two cases are pending. Further, petitioner apprehends danger to her life at Bhimavaram. So considering these aspects, I feel that the request of the wife can be considered.

10. Accordingly, Tr.CMP is allowed and H.M.O.P.No.149/2012 is withdrawn from Senior Civil Judge, Bhimavaram and transferred to Senior Civil Judge, Tanuku for disposal in accordance with law. No costs.

11. As a sequel, miscellaneous petitions, if any, pending in this Tr.CMP, shall stand disposed of.

JUSTICE S. RAVI KUMAR

Date:13.02.2015

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