

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.260 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.103 of 2013 from the file of the I Additional Senior Civil Judge, Warangal and transfer the same to the Senior Civil Judge Court, Peddapally to be tried along with O.P No.30 of 2015.

2. Heard both counsel and perused the material available on record.

3. The marriage of the petitioner was performed with the respondent on 16.03.2007 at Kunaram Village, Kalva Srirampur Mandal, Karimnagar District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. The petitioner lodged a complaint to the Station House Officer, Srirampur, who in-turn registered a case in Crime No.88 of 2013 for the offences punishable under Section 498-A of IPC and Section 4 of Dowry Prohibition Act (for short "D.P.Act"). After completion of the investigation, the Station House Officer laid charge sheet against the respondent. The Judicial First Class Magistrate, Sulthanabad has taken the cognizance of offence against the respondent under Section 498-A of IPC and Section 4 of D.P.Act, and numbered it as C.C.No.8 of 2014. The petitioner filed M.C.No.8 of 2014 seeking maintenance from the respondent and the same is pending on the file of the Judicial Magistrate of First Class, Sulthanabad. The petitioner also filed O.P.No.30 of 2015 on the file of the Senior Civil Judge, Peddapally for restitution of conjugal rights. The respondent filed O.P. No.103 of 2013 on the file of the I Additional Senior Civil Judge, Warangal for dissolution of marriage between him and the petitioner._

4. The petitioner has been residing at her parents' house at

Kunaram village, Karimnagar District due to misunderstandings between her and the respondent. The distance between Warangal and Sulthanabad is nearly 150 KMs. It is not the case of the respondent that the petitioner is having sufficient means to maintain herself and to travel from Kunaram Village to Warangal without assistance of some male member of the family. Invariably the respondent has to attend Judicial First Class Magistrate, Sulthanabad in view of pendency of C.C.No.8 of 2014 and M.C.No.8 of 2014 and the respondent has to prosecute O.P.No.30 of 2015 which is pending on the file of the Senior Civil Judge Court at Peddapally. 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 the petitions of this nature, 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**^[1], **Sumita Singh v. Kumar Sanjay**^[2] and **Rachna Kanodia v. Anuk Kanodia**^[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 case cited supra, I am of the considered view that the relief sought by the petitioner can be granted.

6. Learned counsel for the respondent submitted that the respondent has been working as Home Guard at Mulugu, Warangal District. As rightly pointed out by the learned counsel for the respondent that it may not be possible for the respondent to obtain leaves frequently and requested to dispense with his presence on each and every date of adjournment. Even if the presence of the respondent is dispensed with, no prejudice will be caused to the petitioner.

7. For these reasons, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.103 of 2013 is withdrawn from the file of the I Additional Senior Civil Judge Court, Warangal and transferred to the Senior Civil Judge Court, Peddapally for trial and disposal in accordance with law. The Senior Civil Judge, Peddapally is hereby directed to dispense with the presence of respondent/husband for each and every date of adjournment. However, respondent shall appear as and when the Court feels that his presence is so required. No costs.

As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

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T.SUNIL CHOWDARY, J.

Date: 02.07.2015.

Gv/

[\[1\]](#) AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

[\[2\]](#) AIR 2002 SC 396

[\[3\]](#) 2001 (7) Supreme 96