

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.66 of 2014

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw H.M.O.P.No.653 of 2013 from the file of the Judge, Family Court, Vijayawada and transfer the same to the file of the Judge, Family Court, Guntur for disposal in accordance with law.

2. The facts leading to filing of the present petition are briefly as follows: The marriage of the petitioner was performed with the respondent on 22.2.2002 at TTD Kalyana Mandapam, Mangalagiri, Guntur District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead happy matrimonial life. Out of lawful wedlock, they were blessed with two female children viz., Eswari Chandra and Jithya Akshitha. Due to disputes, the petitioner has been residing at her parents' house at Guntur. The petitioner lodged a complaint to the Station House Officer, Old Guntur Police Station, who in turn registered a case in Crime No.104 of 2013 against the respondent and others for the offences punishable under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. The petitioner also filed M.C.No.237 of 2013 seeking maintenance from the respondent, which is pending on the file of the Judge, Family Court, Guntur. The respondent herein filed H.M.O.P.No.653 of 2013 on the file of the Judge, Family Court, Vijayawada for dissolution of marriage between him and the petitioner. Hence the petition.

3. Learned counsel for the petitioner submitted that the petitioner is facing much difficulty to attend the Family Court at Vijayawada. Learned counsel for the respondent, on the other hand, submitted that if the matter is transferred, it may cause untold hardship to the respondent.

4. It is an admitted fact that both the petitioner and the respondent hail from Guntur District. The respondent has been residing at Vijayawada by running a Nursing Home. The petitioner has been residing at her parents' house at Guntur. The elder daughter is residing with the mother i.e., the petitioner and the younger daughter is residing with the father i.e., the respondent. For obvious reasons, disputes arose

between the petitioner and respondent, due to which, they approached different courts for redressal. M.C. No.237 of 2013 is pending on the file of the Judge, Family Court, Guntur. Criminal Case registered against the respondent is also pending on the file of VI Additional Judicial Magistrate of First Class, Guntur. It is not the case of the respondent that the petitioner is having sufficient means to attend the Family Court at Vijayawada. The material available on record *prima facie* reveals that the respondent is having sufficient means to maintain himself and to prosecute the H.M.O.P. even at Guntur. The respondent has to attend M.C. No.237 of 2013 and the criminal case at Guntur. Two matters are pending between the parties before the courts at Guntur. Invariably, the respondent has to attend the courts at Guntur. If the H.M.O.P. is not transferred from Vijayawada, the petitioner may face some difficulty to attend the Family Court, Vijayawada.

5. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao, Sumita Singh v. Kumar Sanjay** and **Rachna Kanodia v. Anuk Kanodia**, 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 it is a fit case to transfer H.M.O.P.No.653 of 2013 from the file of the Judge, Family Court, Vijayawada to the file of the Judge, Family Court, Guntur.

6. Accordingly, the Transfer Miscellaneous Petition is allowed. H.M.O.P.No.653 of 2013 is withdrawn from the file of the Judge, Family Court, Vijayawada and transferred to the file of the Judge, Family Court, Guntur for disposal in accordance with law. As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 08.06.2015.

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