

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.3 of 2015

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw M.O.P.No.491 of 2014 from the file of the Judge, Family Court, Vijayawada, Krishna District and transfer the same to the file of the Senior Civil Judge Court, Mancherial, Adilabad District, 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 14.03.2008 at Penamalur village of Krishna District as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead happy marital life. For one reason or other, disputes arose between the parties to the proceedings. The petitioner has been residing at her parents' house at Mancherial, Adilabad District. The petitioner lodged a complaint to the Station House Officer, Mancherial, who in turn registered a case in Crime No.257 of 2014 against the respondent and others punishable under Section 498-A IPC and 3 and 4 of the Dowry Prohibition Act. The respondent herein filed O.P.No.491 of 2014 against the petitioner on the file of Family Court, Vijayawada for dissolution of marriage between them. Hence the petition.

3. Learned counsel for the petitioner submitted that the petitioner being a lady is not in a position to attend the Court at Vijayawada on each and every date of adjournment. She further submitted that the petitioner has no source of income to attend the Court at Vijayawada. Learned counsel for the respondent submitted that the petitioner foisted a criminal case against the respondent herein. He further submitted that the present petition is filed with an ulterior motive to harass the respondent.

4. There is no dispute between the parties with regard to their relationship. The petitioner and respondent lived together for a short period. Unfortunately, disputes arose between both the parties. The fact remains that the parents of the petitioner

belongs to Mancherial, Adilabad District. The respondent hails from Krishna District. The distance between Vijayawada and Mancherial is around 450 kms. It may not be possible for the petitioner to travel 450 kms., without male assistance. The petitioner has to spent huge amount to attend the Family Court at Vijayawada. It is not the case of the respondent that the petitioner is having sufficient source of income to attend the Court at Vijayawada. If the petition is not allowed, the same may cause inconvenience and hardship to the petitioner when compared to the respondent.

5. At this juncture, learned counsel for petitioner has drawn the attention of this court to the decision in **V.Sailaja v V.Koteswara Rao**. Para 8 of the said decision reads as follows:

8. Having heard the learned Counsel for both parties and having due regard to the law laid down by the Apex Court in these matters, I am of the considered view that in matters concerning the transfer of matrimonial cases, it is the convenience of the wife which has to be taken into consideration by the Courts (see **Rachna Kanodia v. Anuk Kanodia**, 2001 (7) Supreme 96, and **Sumita Singh v. Kumar Sanjay**, AIR 2002 SC 396). Thus, in view of the law laid down by the Apex Court in the aforementioned cases, the O.P. filed by the respondent (husband) i.e., O.P. No. 416 of 2000 deserves to be transferred from the file of the Family Court, Vijayawada, to the Senior Civil Judge's Court, Vizianagaram, where the O.P. filed by the petitioner for restitution of conjugal rites is pending.

As per the principle enunciated in the case cited supra, the court has to take into consideration the inconvenience likely to be caused to the wife while deciding transfer petitions.

6. 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 O.P.No.491 of 2014 from the file of the Family Court, Vijayawada, Krishna District, to the file of the Senior Civil Judge Court, at Mancherial, Adilabad District.

7. Accordingly, the Transfer Miscellaneous Petition is allowed. O.P.No.491 of 2014 is withdrawn from the file of the Judge, Family Court, Vijayawada, Krishna District and transferred to the file of the Senior Civil Judge Court, at Mancherial, Adilabad District, 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:04.06.2015.

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