

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.679 of 2015

ORDER:

This Transfer CMP is filed to withdraw OP.No.1830 of 2014 pending on the file of the Judge, Family Court, Rangareddy District at L.B.Nagar and transfer the same to the Court of II Additional Judicial First Class Magistrate, East Godavari District at Kakinada.

The case of the petitioner is that she is the legally wedded wife of the respondent and her marriage with the respondent was performed on 18.05.1997 as per Hindu Rites and Customs and that out of their wed lock they were blessed with two daughters. It is also stated that the respondent never looked after the welfare of the petitioner and her children at any point of time and that the petitioner used to maintain the family with the assistance of her father and sisters who provided monitory help for paying children school fee and also for dresses to the children. It is also stated that disputes arose between the petitioner and respondent due to bad vices of the respondent and that ultimately the petitioner filed MC.No.39 of 2015 on the file of II Additional Judicial First Class magistrate, Kakinada, for grant of maintenance against the respondent. It is also stated that the respondent is also attending the Court proceedings in the MC. It is further stated that the respondent filed OP.No.1830 of 2014 on the file of the Judge, Family Court, Rangareddy District at L.B.Nagar, seeking divorce. The case of the petitioner is that she is staying along with her two daughters at her parents' house at Kakinada; that she has no source of income and that it is very difficult for her to travel all the way from Kakinada to Hyderabad and as such filed the present

transfer petition.

The respondent filed counter affidavit denying all the allegations made by the petitioner against him. The respondent opposed transfer mainly on the ground that when he went to Kakinada on 11.12.2015 to defend himself in MC filed by the petitioner, he was followed up by two men wearing masks round their mouth without being identified and attacked him and that he used to get threatening phone calls, for which he lodged a complaint before the III Town LNO Police Station, Kakinada. As such, he sought dismissal of the transfer petition.

Heard learned counsel for the petitioner.

Learned Counsel for the respondent opposed the transfer of OP, on the ground that the respondent is a private employee and if the OP is transferred, it is very difficult for the respondent also to travel from Hyderabad to Kakinada as he is having life threat.

In this case, it is to be seen that MC.No.39 of 2015 is pending on the file of II Additional Judicial First Class Magistrate, Kakinada and that the respondent is attending the said Court at Kakinada. Since the respondent is already attending the Court proceedings in the MC, if the OP.No.1830/2014 is transferred, he can also defend the OP, instead of petitioner coming all the way from Kakinada to Hyderabad to defend the OP. Though, it is stated by the respondent that there is a life threat to him and that he lodged a complaint before the III Town LNO Police Station, Kakinada, till today, no crime is registered. But, still the respondent is opposing the transfer on the ground of life threat. As such, for convenience of both the parties , I deem it proper that the OP.NO.1830 of 2014 is transferred to Rajahmundry which is

around 60 K.Ms. away from Kakinada.

Further, the Apex Court in ***Sumita Sing v. Kumar Sanjay and another***^[1] 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 above facts and circumstances, OP.NO.1830 of 2014 pending on the file of the Judge, Family court, Ranga Reddy Distrcit at L.B.Nagar is transferred to the Family Court, Rajahmundry. However, the respondent shall bear the travelling expenses of the petitioner for attending the Court proceedings at Rajahmundry. Further, since it is stated that the respondent is a private employee, the presence of the respondent is dispensed with on each and every date of hearing, except on the dates of conciliation, cross-examination or any other dates the Court below feels necessary. 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

31.12.2015
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^[1] AIR 2002 SUPREME COURT 396