

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.332 of 2015

ORDER:

_____ This petition is filed under Section 24 of C.P.C. to withdraw F.C.O.P.No.172 of 2015 from the file of the Judge, Family Court, Visakhapatnam and transfer the same to the file of the Judge, Family Court, City Civil Court, Hyderabad for disposal in accordance with law.

2. _____ Heard the learned counsel for the petitioner.

3. _____ A perusal of the record reveals that on 07.08.2015, this Court permitted the learned counsel for the petitioner to serve the notice to the respondent by way of substituted service by issuing paper publication mentioning the date of listing the matter as 31.08.2015. In spite of paper publication, he did not choose to appear and contest the matter. Hence, I am inclined to dispose of the matter on merits in the absence of the respondent.

4. _____ The marriage of the petitioner was performed with the respondent on 29.05.2013 as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with a son. Basing on the complaint lodged by the petitioner, the Station House Officer, Kukatpally Housing Board Police Station registered a case in Crime No.880 of 2014 under Sections 498-A and 506 I.P.C., and Sections 3 and 4 of the Dowry Prohibition Act, 1961. The respondent filed F.C.O.P.No.172 of 2015 on the file of the Judge, Family Court, Visakhapatnam for restitution of conjugal rights.

5. _____ The petitioner has been residing in Hyderabad at her parents' house. As per the recitals of F.C.O.P.No.172 of 2015, the respondent has been residing at her parents' house in Hyderabad. The distance

between Hyderabad and Visakhapatnam is nearly 750 KM. The petitioner may face some difficulty to travel from Hyderabad to Visakhapatnam to prosecute F.C.O.P.No.172 of 2015 without the assistance of one of the male members of the family. Invariably, the respondent has to attend the Criminal Court in Hyderabad in view of pendency of Crime No.880 of 2014. While deciding the petitions of this nature, the Court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings more particularly to the wife and children.

6. As per the principle enunciated in **T.Gayatri Devi v.**

Dr. Tallepaneni Sreekanth^[1], **Rachna Kanodia v. Anuk Kanodia**^[2] and **Sumita Singh v. Kumar Sanjay and another**^[3], the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

7. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that the relief sought by the petitioner deserves to be allowed.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.172 of 2015 is withdrawn from the file of the Judge, Family Court, Visakhapatnam and transferred to the file of the Judge, Family Court, City Civil Court, Hyderabad for disposal in accordance with law. There shall be no order as to costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition, shall stand closed.

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T.SUNIL CHOWDARY, J

Date: 04.09.2015

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[\[1\]](#) 2013 (6) ALT 42 (SC)

[\[2\]](#) 2001 (7) Supreme 96

[\[3\]](#) AIR 2002 SC 396