

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP No.277 of 2014

ORDER:

1 This petition is filed under Section 24 C.P.C by the wife seeking to withdraw O.P.No.7 of 2014 from the file of the Senior Civil Judge, Bhongir and transfer the same to the Court of the III Additional District & Sessions Judge, Warangal.

2 The facts leading to the filing of the present petitions are, briefly, as follows:

3 The marriage of the petitioner was performed with the respondent on 10.12.2010 at Rampeta village, Hanamkonda Mandal, Warangal District as per Hindu rites and caste custom. At the time of marriage, the parents of the petitioner gave Rs.10,75,000/- and other household articles to the respondent towards dowry. Out of their wedlock, the petitioner and the respondent were blessed with a male child on 28.10.2011 and a female child on 20.09.2013. Subsequently disputes arose between the petitioner and the respondent. The petitioner lodged a complaint to the Station House Officer, Madikonda, who in turn registered a case in Cr.No.97 of 2014 against the respondent for the offences punishable under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. The respondent filed O.P.No.7 of 2014 on the file of the Senior Civil Judge, Bhongir under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. The petitioner has been residing at her parents house in Hanamkonda.

4 The learned counsel for the petitioner submitted that the petitioner is facing much difficulty to attend the Court at Bhongir. The learned counsel for the respondent submitted that the petitioner foisted a false criminal case against the respondent, and hence, the petition is liable to be dismissed.

5 There is no dispute with regard to the relationship between the parties. For one reason or the other, differences arose between the petitioner and the respondent. The petitioner has been residing at her parents house in Hanamkonda. It is not possible for the petitioner to attend the Court at Bhongir on each and every date of adjournment along with her minor children. The petitioner made several allegations against the respondent, likewise, the respondent also made several allegations against the petitioner. While deciding

the petitions of this nature, the Court should not express any opinion touching the merits of the main case. Hence I am not inclined to express any opinion with regard to the allegations and the counter allegations made by the parties to the proceedings. In the petition, the petitioner categorically mentioned that she has been suffering with T.B. The Court has to take into consideration the hardship likely to be caused to the parties while deciding the petitions of this nature. It is not the case of the respondent that the petitioner has sufficient means to attend the Court at Bhongir. It is not possible for the petitioner to attend the Court at Bhongir on each and every adjournment without the assistance of some male person. In order to resolve the issue, this Court is placing reliance on the ratio laid down in **V. Sailaja Vs. V. Koteswara Rao**. Para 8 of the said judgment 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.

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

7 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.7 of 2014 from the file of the Senior Civil Judge, Bhongir to the Court of the III Additional District & Sessions Judge, Warangal.

8 Accordingly, the Transfer Miscellaneous Petition is allowed. O.P.No.7 of 2014 is withdrawn from the file of the Senior Civil Judge, Bhongir and transferred to the file of the III Additional District & Sessions Judge, Warangal for trial and disposal in accordance with law. As a sequel, miscellaneous petitions, if any pending in this Tr.CMP, shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 3rd June, 2015.

kvsn