

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP No.357 of 2014

ORDER:

This petition is filed under Section 24 C.P.C to withdraw O.P.No.109 of 2013 from the file of the Senior Civil Judge, Siddipet, Medak District and transfer the same to the Family Court, Nalgonda.

2. The facts leading to the filing of the present petition are briefly as follows: The marriage of the petitioner with the respondent was performed on 11.06.2009 at Seetha Ramachandra Devasthanam at Nalgonda as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined with the respondent to lead happy marital life. Out of lawful wedlock, they were blessed with a boy. For one reason or other, disputes arose between the parties. The petitioner has been residing at Nalgonda at her parents' house. The petitioner lodged a complaint to the Station House Officer, Women Police Station, Nalgonda on 13.07.2012, who in-turn registered the case in Crime No.57 of 2012 for the offences punishable under Section 498-A of IPC and Sections 3 and 4 of Dowry Prohibition Act. After completion of the investigation, the Station House Officer lead charge sheet against the respondent and other family members. The Judicial First Class Magistrate, Nalgonda has taken the cognizance of offence against the respondent and others under Section 498-A of IPC and Sections 3 and 4 of Dowry Prohibition Act and numbered it as C.C.No.820 of 2013.

3. The respondent/husband filed O.P No.109 of 2013 on the file of Senior Civil Judge, Siddipet at Medak District for dissolution of marriage. Learned counsel for the petitioner submitted that it is very difficult for the petitioner to attend the Court at Siddipet. Learned counsel for the respondent submitted that the petitioner is residing at Hyderabad, therefore the petition is liable to be dismissed.

4. It is an admitted fact that the petitioner and the respondent were blessed with a male child out of their lawful wedlock unfortunately bad weather prevailed in the family life of petitioner and respondent which prompted them to approach criminal court as well as family Court. The respondent has to attend the Judicial First Class Magistrate Court at Nalgonda in view of pendency of C.C.No.820 of 2013. It is an admitted fact that petitioner has been residing in Nalgonda at her parents' house. It

is not the case of the respondent that the petitioner has sufficient means to prosecute the case at Siddipet. The distance between Siddipet and Nalgonda is nearly 150 KMs. It may not be possible for the petitioner to attend the Court at Siddipet on each and every date of adjournment without the assistance of one male person. While deciding this type of cases the Court has to take into consideration inconvenience likely to be caused to the parties to the proceedings. 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.

5. 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.

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.109 of 2013 from the file of the Senior Civil Judge, Siddipet, Medak District to the Family Court, Nalgonda.

7. Accordingly, the Transfer Miscellaneous Petition is allowed. O.P.No.109 of 2013 is withdrawn from the file of the Senior Civil Judge, Siddipet, Medak District and transferred to the Family Court, Nalgonda 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: 04.06.2015.

Gv/

