

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.695 of 2013

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw H.M.O.P.No.46 of 2013 from the file of the Senior Civil Judge Court, Kavali, S.P.S.R. Nellore District and transfer the same to the Family Court, Kadapa, Kadapa District for disposal in accordance with law.

2. Learned counsel for the petitioner submitted that it is very difficult for the petitioner to go to Kavali to prosecute the case. Learned counsel for the respondent submitted that the petitioner filed the present petition with ulterior motive.

3. I have perused the material available on record. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 06.06.2010 at Kavali, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead happy marital life. Out of lawful wedlock, on 12.04.2011, they were blessed with a son. For obvious reasons, disputes arose between the parties to the proceedings. The petitioner lodged a complaint to the Station House Officer, Siddout Police Station, Kadapa District, who in-turn registered a case in Crime No.50 of 2013 against the respondent and others for the offences punishable under Sections 498-A and 307 of IPC and Sections 3 and 4 of Dowry Prohibition Act. The respondent filed H.M.O.P. No.46 of 2013 on the file of the Senior Civil Judge, Kavali, seeking restitution of conjugal rights against the petitioner.

4. The petitioner has been residing at her parents' house in Bakarapet Village of Kadapa district along with her minor son, due to family disputes. It is not the case of the respondent that the petitioner is having sufficient means to travel from her native place to Kavali of Nellore District. If the petition is dismissed, it may cause untold hardship to the petitioner. Even if the petition is allowed, the same may not cause any prejudice to the respondent as the respondent has to attend the Judicial First class Magistrate, Sidhout to face the trial in Crime No.50 of 2013. While disposing of this type of petitions, the court has to take into consideration the ground realities as

well as the hardship likely to be caused to the wife.

5. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao, Sumita Singh v. Kumar Sanjay** and **Rachna Kanodia v. Anuk Kanodia**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife. 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 the relief sought by the petitioner can be granted.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.46 of 2013 is withdrawn from the file of the Senior Civil Judge, Kavali, S.P.S.R. Nellore District and transferred to the Family Court, Kadapa, Kadapa District for trial and disposal in accordance with law. No costs.

As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

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T.SUNIL CHOWDARY, J.

Date: 18.06.2015.

GvI

