

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP No.725 of 2014

ORDER:

This petition is filed under Section 24 C.P.C to withdraw F.C.O.P.No.68 of 2014 from the file of the Family Court at Karimnagar and transfer the same to the Family Court, Ranga Reddy District at L.B.Nagar.

2. The facts leading to filing of the present petition are briefly as follows: The marriage of the petitioner with the respondent was performed on 07.05.2009 at Mundada Function Hall, Karimnagar as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined with the respondent at Karimnagar to lead happy marital life. Out of their wedlock, the petitioner gave birth to a male child. For various reasons bad weather prevailed in the family life of the parties to the proceedings. Due to misunderstandings the petitioner has been residing at her parents' house at Ramanthapur, Hyderabad. The respondent filed F.C.O.P.No.68 of 2014 on the file of the Family Court, Karimnagar against the petitioner for dissolution of marriage. Hence, the petition.

3. Learned counsel for the petitioner submitted that the petitioner being a lady is facing much difficulty to attend the Court at Karimnagar.

4. Sri K.Venumadhav, learned counsel for the respondent submitted that the petitioner has not assigned cogent and valid reasons for transfer of this case, therefore, the petition is liable to be dismissed.

5. There is no dispute between the parties with regard to their relationship. The petitioner has been residing in Ramanthapur at the mercy of her parents. It is not the case of the respondent that the petitioner is having sufficient means to maintain herself and her minor son. The petitioner herein filed DVC No.11 of 2013 on the file of III Metropolitan Magistrate, Ranga Reddy and the same is pending. It appears that the respondent herein filed the present petition after filing of the DVC by the petitioner.

6. At the time of argument, the learned counsel for the petitioner submitted that an interim maintenance was granted in favour of the petitioner in DVC No.11 of 2013, this itself indicates the financial status of the petitioner. The distance between

Hyderabad and Karimnagar is nearly 150 KMs. It may not be possible for the petitioner to attend the Court at Karimnagar on each and every date of adjournment by travelling nearly 150 KMs without the assistance of some male person. While deciding this type of cases, the Court has to take into consideration the ground realities as well as inconvenience likely to be caused to the parties to the proceedings. If the petition is not allowed, the same may cause untold hardship and inconvenience to the petitioner when compared to the respondent. 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.

7. 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.

8. 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 F.C.O.P.No.68 of 2014 from the file of the Family Court, Karimnagar to the Family Court, Ranga Reddy at L.B. Nagar.

9. Accordingly, the Transfer Miscellaneous Petition is allowed. F.C.O.P.No.68 of 2014 is withdrawn from the file of the Family Court, Karimnagar and transferred to Family Court, Ranga Reddy District at L.B.Nagar for trial and disposal in accordance with law. No costs.

As a sequel, miscellaneous petitions, if any pending in this Tr.CMP, shall stand closed.

-

T.SUNIL CHOWDARY, J.

Date: 04.06.2015.

GvI