

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.28 of 2015

ORDER:

This petition is filed under Section 24 of C.P.C. to withdraw O.P.No.1496 of 2014 from the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar and transfer the same to the file of the Judge, Family Court, Ongole for disposal in accordance with law.

2. The facts leading to filing of the present petition, in brief, are as follows:

The marriage of the petitioner was performed with the respondent on 28.05.2011 at Muppalla Village of Prakasam District as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined with the respondent to lead happy marital life. The petitioner gave birth to a boy 3 ½ years back. Thereafter, disputes arose between the petitioner and the respondent. The petitioner has been residing at her parents' house at Ongole. The petitioner lodged a complaint to the Station House Officer, Ongole Taluq Police Station, Prakasam District, who in turn registered a case in Crime No.202 of 2013 against the respondent and others for the offences punishable under Section 498-A I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961. The petitioner filed M.C.No.101 of 2013 on the file of the Judge, Family Court, Ongole seeking maintenance from the respondent. The respondent filed O.P.No.1496 of 2014 against the petitioner on the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar for restitution of conjugal rights.

3. Sri N.Madhava Rao, the learned counsel for the petitioner, submitted that it may not be possible for the petitioner to attend the Family Court, Ranga Reddy District at L.B.Nagar on each and every date of adjournment due to financial problems.

4. Sri P.Subba Rao, the learned counsel for the respondent, submitted that the petitioner filed the present petition with an intention to cause inconvenience to the respondent.

5. It is an admitted fact that the petitioner and the respondent belongs to Muppalla Village of Prakasam District. The petitioner has been working as an employee in NATCO Pharmaceuticals, Hyderabad. Unfortunately, disputes arose between the petitioner and the respondent. The petitioner has been residing at the mercy of her

parents at Ongole along with her 3 ½ years son. The distance between Ongole and the Hyderabad is nearly 360 KM. It may not be possible for the petitioner to travel from Ongole to Hyderabad without the assistance of her brothers or parents. It is not the case of the respondent that the petitioner has sufficient means to prosecute the case at Hyderabad. In matrimonial cases, the Court has to take into consideration the ground realities as well as the inconvenience likely to be caused to the parties to the proceedings. If the petition is not allowed, it may cause untold hardship and inconvenience to the petitioner when compared to the respondent.

At this juncture, this court is placing reliance on the decision in **V.Sailaja v V.Koteswara Rao**, wherein at Para No.8 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.

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.1496 of 2014 from the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar to the file of the Judge, Family Court, Ongole.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.1496 of 2014 is withdrawn from the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar and transferred the same to the file of the Judge, Family Court, Ongole for disposal in accordance with law. The presence of the respondent is hereby dispensed with on each and every date of adjournment before the Judge, Family Court, Ongole. However, he shall appear before the Judge, Family Court, Ongole as and when his presence is so required.

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

T.SUNIL CHOWDARY, J

Date: 04.06.2015

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