

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

TRANSFER CRIMINAL PETITION No.28 of 2014

ORDER:

This transfer criminal petition is filed seeking transfer of D.V.C.No.1 of 2014 from the file of the IV Additional Chief Metropolitan Magistrate, Visakhapatnam to the Court of the V Additional Judicial First Class Magistrate, Kakinada, East Godavari District.

The petitioner is the husband of the 1st respondent. The 1st respondent filed the above DVC under Section 12 of the Protection of Women from Domestic Violence Act, 2005 against the petitioner and his family members. The main ground on which this transfer application is filed is that the petitioner is a Government Doctor and the 1st respondent has filed the DVC at Visakhapatnam only to harass the petitioner. The petitioner further submitted that none of the ingredients to attract the jurisdiction of Visakhapatnam is made out.

Heard the learned counsel for the petitioner as well as the learned counsel for the respondents.

A perusal of the material available on record would show that after the death of his first wife, the petitioner married the 1st respondent herein in December, 1996. By the time of marriage, the petitioner got job as Medical Officer and both the petitioner and 1st respondent led their marital life in Government Quarters at Maredumulli, East Godavari District. Thereafter, the petitioner was transferred to Area Hospital, Ramachandrapuram, East Godavari District in 2003 and shifted their residence to Kakinada. There arose family disputes in between the petitioner and the 1st respondent after expiry of the father of the 1st respondent in December, 2003. The 1st respondent in the month of April, 2006 gave police report against the petitioner and due to

intervention of elders the same was pacified. Again, in the month of May, 2013 the 1st respondent lodged a complaint before Women P.S. Kakinada against the petitioner and his family members under Section 498-A IPC and the same was pending before the V Addl.Judicial 1st class Magistrate, Kakinada vide CC.No.258 of 2013. At present the 1st respondent was residing separately at Visakhapatnam. After filing of the criminal complaint against the petitioner, the 1st respondent also filed FCOP.No.1151/2014 before the Judge, Additional Family Court, Visakhapatnam and she further filed DVC No.1/2014 on the file of the IV Additional Chief Metropolitan Magistrate, Visakhapatnam against the petitioner.

It is not in dispute that the petitioner has been working as Medical Officer in East Godavari District. As rightly contended by the learned counsel for the petitioner, no incident taken place within the jurisdiction of Court at Visakhapatnam. As admitted by the 1st respondent in her affidavit filed in FCOP and DVC, after her marriage till separation, herself and the petitioner lived in East Godavari District. The witnesses referred to in the criminal complaint, FCOP and DVC all belong to East Godavari District. Having regard to the above facts and circumstances, more particularly, the fact that the entire incident took place at Kakinada & Rajahmundry and all the witnesses are residents of Rajahmundry, I feel that the case from Visakhapatnam be transferred to Kakinada.

Having regard to the facts and circumstances of the case, the Transfer Criminal Petition is allowed, D.V.C.No.1 of 2014 pending before the IV Additional Chief Metropolitan Magistrate, Visakhapatnam is withdrawn and transferred to the Court of the V Additional Judicial First Class Magistrate, Kakinada, East Godavari District. Interim order granted, if any, shall stand vacated.

Pending miscellaneous applications, if any, shall stand closed
in consequence.

M.S.K.JAISWAL,J

Date: 04.07.2016
Dsr