

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Tr.C.M.P.No.579 of 2016

&

Tr.C.M.P.No.595 of 2016

COMMON ORDER:

F.C.O.P. No.285 of 2016 is filed by the husband before the Family Court, Guntur, under Section 13 (1) (ia) & (ib) of the Hindu Marriage Act, 1955, for dissolution of marriage and for a decree for divorce.

O.P No.77 of 2016 is filed by the wife before the Family Court, Karimnagar, under Section 9 of the aforesaid Act for restitution of conjugal rights.

2. Tr.C.M.P.No.579 of 2016 is the wife's application under Section 24 of the Code of Civil procedure, 1908, requesting to withdraw, the F.C.O.P. No.285 of 2016 ('divorce OP' for brevity) filed by the Husband from the Family Court, Guntur, and transfer the same to the Family Court, Karimnagar, for trial and disposal, in accordance with the procedure established by law, along with the O.P No.77 of 2016 ('wife's OP' for brevity) filed by the wife for restitution of conjugal rights.

2.1 Tr.C.M.P.No.595 of 2016 is the Husband's petition seeking transfer of the wife's OP from the Family Court, Karimnagar, to the Family Court, Guntur, for trial and disposal, in accordance with the procedure established by law, along with the divorce OP filed by him.

3. I have heard the submissions of *Sri Bethi Venkateswarlu*, learned counsel for the wife, and *Smt. Marella Padha*, learned counsel for the husband, and perused the material record.

4. Sans serious allegations traded by the parties, which require examination in the main cases, the contentions of the parties, which are relevant for the disposal of these two petitions, are as follows:

The case of the wife: 'The marriage was performed at Santu village of Jalore District, Rajasthan State. The families of both the parties hailed from Rajasthan. After estrangement, the wife, who never wanted to become a burden on her parents, came over to Hyderabad having decided to stay in Women's hostel and search for a job. The parents having filed a woman missing case found her in the said hostel. In the circumstances, having no other option the wife came over to Karimnagar with her father and is presently staying at Karimnagar Town and filed her OP for restitution of conjugal rights. The husband filed divorce OP in the Family Court, at Guntur, which is at a distance of 400 KMs from Karimnagar. When on 08.08.2016, the wife along with her father attended before the said Court at Guntur, the husband and his parents who came to that Court threatened her to agree for divorce and that otherwise, she and her mother have to face dire consequences and that they would see the end of her life. Therefore, she apprehends life threat at Guntur in their hands. Hence, the wife is not in a position to undertake travel and attend the proceedings in the divorce OP filed by the husband in the Court at Guntur. She is not in a position to meet the travel and other incidental expenses. The husband who is having good income and who is not having any difficulties as are being faced by the wife can attend the proceedings in the OP filed by her in the Court at Karimnagar.'

5. The case of the husband: 'After marriage, both parties lived together at Guntur. The wife is not interested in leading marital life with

her husband. She agreed for the marriage under the pressure of her parents. As she had left the company, the husband is constrained to file the OP for divorce in the Family Court at Guntur. After receiving notice in the said case, the wife filed the OP in the Court at Karimnagar. When the wife and her family members attended the Court proceedings in divorce OP at Guntur, they threatened the husband that he has to face dire consequences if he comes to Karimnagar. The wife and her family members presently belong to Karimnagar locality and have local influence at that place. In the circumstances, the husband apprehends life threat at Karimnagar.

6. At the hearing, the learned counsel for the parties reiterated the respective contentions of the parties. I have given earnest consideration to the facts and the submissions.

7. Apart from reiterating the case of the wife, her learned counsel would submit that her inconvenience, incapacity, financial weakness, lack of assistance and inability to travel frequently from Karimnagar to Guntur without any assistance by incurring huge expenses may be considered and her convenience be preferred over that of the husband, who is healthy and financially sound and is in a position to undertake travel to Karimnagar from Guntur. The learned counsel for the husband while reiterating his pleaded case would submit that he has a life threat at Karimnagar, which is the present local place of the wife and her parents and that at that place the wife's family is having local influence and that in the circumstances, the husband is not in a position to attend the OP proceedings in the Court at Karimnagar.

8. Having due regard to the facts and the submissions, the vital issue for consideration is as to the convenience of which of the two parties is

to be preferred. At the hearing, the learned counsel submitted alternatively that any other Court at any other place other than Karimnagar and Guntur may be ideal and that therefore; both the cases may be transferred to any such Court at any other suitable place, in the interests of justice. It is also stated that Hyderabad would be convenient for the wife. Whereas, it is stated on behalf of the husband that Nalgonda would be convenient for him as it is situated at an ideal distance from both the places, viz., Karimnagar and Guntur. It is also stated that the wife is now employed. As per settled law, unless there are special circumstances warranting taking a different view, the convenience of the wife has to be looked into, considered and preferred. The distance by road from Karimnagar to Hyderabad is less than 160 KMs. Having regard to the allegations traded by the parties and the fact that the wife who once stayed in a women's Hostel at Hyderabad is capable of managing her own affairs and balancing the interests and conveniences of the parties and taking into consideration the facts peculiar to the case, this Court considers that the ends of justice would be met, if both the cases are brought to the file of a Court at Hyderabad, as it is situated at an ideal distance from both the places, viz., Karimnagar and Guntur and is well connected by road and rail. In case of financial incapacity to undertake travel from Karimnagar to Hyderabad to attend the Court cases, the wife can file appropriate applications in either of the cases for grant of travel and incidental expenses for her and one more person who may accompany her. It is needless to state that such applications, if any, filed by the wife for the above relief will be considered by the Court concerned in a just and fair manner and in accordance with the procedure established by law.

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9. In the result, both the Transfer Petitions are disposed of and F.C.O.P. No.285 of 2016 filed by the husband before the Family Court, Guntur, and the O.P.No.77 of 2016 filed by the wife before the Family Court, Karimnagar, are withdrawn from the files of the said Courts and are transferred to the file of the Family Court, City Civil Court, Hyderabad, for trial, either jointly or simultaneously, and disposal in accordance with the procedure established by law. In view of these orders, as indicated in the preceding paragraph of this order, the wife is at liberty to claim travel and incidental expenses from her husband for her and one more person who may accompany her, if she so wishes, to enable her to attend the Court cases in the Family Court, City Civil Court, at Hyderabad.

Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.



M. SEETHARAMA MURTI, J

03rd November, 2016
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