

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.C.M.P No.85 of 2016

ORDER:

This petition is filed to withdraw O.P.No.474 of 2015 from the file of Family Court, City Civil Court, Hyderabad and transfer the same to Family Court, Warangal.

2. Wife filed this petition. According to her affidavit, her marriage with respondent was performed on 05.06.2013 at Rangampet Church, Warangal, as per Christian rites and custom and the marriage was consummated on 15.01.2015 and a male child was born out of their wedlock. She stated that she went to her parents' house at Warangal for delivery and thereafter she was not taken back and she is staying at her parents' house and that she received a notice from Family Court, Hyderabad that a divorce OP is filed by respondent. She stated that she has an infant child and had undergone major operation at the time of delivery and having post operation problems, therefore it is difficult for her to attend the Court at Hyderabad with infant child. She further stated that there is none to accompany her to Hyderabad as her parents are more than 75 years old suffering from old age ailments like B.P., Sugar and Heart problems. For these reasons, she prayed for transfer of O.P.No. 474 of 2015 from Hyderabad to Warangal.

3. Respondent filed counter disputing the affidavit averments of petitioner and according to counter, father of petitioner is a highly influenced person having good contacts with various types of persons in and around Warangal and petitioner left the matrimonial home on 19.12.2014 i.e., on the fifth day of 9th month pregnancy and when the petitioner's father came to their

house uninformed and the petitioner immediately went downstairs and left along with her father and that petitioner's father and his henchmen created a big scene in their locality by shouting and threatening them saying that they would destroy their family and dwelling house by bombing the house and threatened saying if he visits Warangal to see the new born child they would see his end, for which, he was constrained to seek police protection even for seeing the new born child at the hospital and that there is every likelihood of such threats to his life or body in the event of his visit to Family Court, Warangal for the purpose of prosecuting OP. He further stated that he is working in a private firm and it would be very difficult for him to obtain leave so as to travel to Warangal.

4. A reply affidavit is filed on behalf of petitioner to the counter-affidavit filed on behalf of respondent/husband and in the reply affidavit she reiterated her difficulty to attend Hyderabad with an infant child and denied the life threat alleged by respondent. It is contended that respondent only to avoid transfer of case invented story. It is further contended as all the witnesses are from Warangal, it will be convenient for all, if the case is transferred to Warangal.

5. Heard arguments

6. Both advocates submitted their arguments supporting the contentions of their respective clients.

7. I have perused the material papers including affidavit, counter-affidavit and reply affidavit. Admittedly, no cases are pending at Warangal between the parties and the only case is before Family Court, Hyderabad. According to petitioner/wife, it is difficult for her to travel from Warangal to Hyderabad with a infant

child for the purpose of defending this OP and according to respondent/husband, he has life threat at Warangal and in fact father of petitioner came to their locality with his henchmen and created a scene and threatened him that they would destroy their home by bombing, therefore, he is apprehending every danger in the hands of the family members of petitioner at Warangal.

8. Admittedly, there is no Family Court in between Warangal and Hyderabad to consider transfer of the case to a middle place. Therefore, considering contentions and rival contentions to protect interest of both parties, I am of the view that by dispensing with the presence of wife i.e., petitioner herein for each and every adjournment before Family Court, Hyderabad, this petition can be disposed of.

9. Accordingly, this Transfer Civil Miscellaneous Petition is disposed of by dispensing with the presence of wife i.e., petitioner herein for each and every adjournment by giving liberty to wife to invoke the provisions for appointment of Advocate Commissioner to record her evidence at her house, and on filing such petition, Family Court shall consider it sympathetically. No costs.

Miscellaneous Petitions, pending in this petition, if any, shall stand closed.

S. RAVI KUMAR, J

Date: 11-04-2016.

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