

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

Transfer Criminal Petition No.121 of 2014

ORDER:-

The petition is filed to transfer D.V.C.No.6 of 2014 from the file of Special Judicial Magistrate of First Class Mobile (PCR), Adilabad, to any Court at Hyderabad.

The petitioners are the father-in-law and mother-in-law of the first respondent, who was married to the son of the petitioners in the year 2004. The couple lived in United Kingdom and are blessed with two sons, who are the 2nd and 3rd respondents herein. In November, 2013, the first respondent/daughter-in-law came to India and within twenty days after her arrival, she filed a complaint alleging offences punishable under Sections 498-A of I.P.C., and 3 and 4 of the Dowry Prohibition Act, which is registered as Cr.No.53 of 2013 of Women Police Station, Adilabad. Thereafter, the first respondent filed D.V.C.No.6 of 2014 on the file of the Special Judicial Magistrate of First Class Mobile (PCR), Adilabad. The first respondent/daughter-in-law also filed F.C.O.P.No.31 of 2014 on the file of the Family Court at Hyderabad against her husband. The husband filed divorce case in a Court at United Kingdom.

The contention of the petitioners is that they are people aged more than 70 years, that the first respondent is a resident of Secunderabad, that the father of the first respondent is a former Public Prosecutor at Adilabad and the present D.V.C. is filed at the Court at Adilabad in order to exert influence on the police so as to harass the petitioners. Therefore, the case at Adilabad may be transferred to any Court at Hyderabad.

The petition is opposed by the first respondent contending that it is no doubt true that she came to Hyderabad and lived here for sometime but subsequently since she has nobody to support her, she went to her father's house at Adilabad and is staying there. It is further

submitted that if the case is transferred to Hyderabad, it is very difficult and inconvenient for the first respondent/daughter-in-law to go to Hyderabad on every date of hearing. Learned Counsel further submits that there are no grounds to transfer the case from Adilabad and hence the petition is liable to be dismissed.

The admitted facts reveal that in between the parties, a crime is pending at Adilabad and the D.V.C. is pending at Adilabad. The daughter-in-law also filed an O.P. in the Family Court at Secunderabad. She is presently staying with her father at Adilabad. Section 27 of the Domestic Violence Act defines Jurisdiction as under:-

- [\(1\)](#) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which—
 - [\(a\)](#) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
 - [\(b\)](#) the respondent resides or carries on business or is employed; or
 - [\(c\)](#) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.
- [\(2\)](#) Any order made this Act shall be enforceable throughout India.

In view of the above, the petition filed by the daughter-in-law in Court in Adilabad cannot be said to be having no jurisdiction.

Coming to the question of inconvenience, it is either the daughter-in-law who has to suffer the inconvenience of travelling all the way from Adilabad to Hyderabad on every date of hearing or the petitioners who are aged father-in-law and mother-in-law had to travel from Hyderabad to Adilabad to attend the case in D.V.C. If these two are juxtaposed, the inconvenience of the daughter-in-law who is the alleged victim of a domestic violence needs to be given weight. The apprehension of the petitioners that since her father is a former Public Prosecutor at Adilabad, he may influence the police so as to harass

them is unsubstantiated. There is no question of there being any influence on the police insofar as the enquiry in a Domestic Violence Case is concerned. Needless to say that during the proceedings in D.V.C., the presence of the petitioners, who are respondents therein, need not be necessary.

In view of the foregoing discussion, I see no merits in the present transfer criminal petition and the same is dismissed subject to observation that the learned Magistrate at Adilabad shall proceed with the enquiry in D.V.C.No.6 of 2014 without insisting for the presence of the petitioners on each and every date of hearing unless their physical presence is necessary for any specific purpose.

The Transfer Criminal Petition is accordingly dismissed.

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

M.S.K.JAISWAL,J

Date:05.07.2016

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