

HON'BLE SRI JUSTICE S. RAVI KUMAR

Tr.CIVIL MISCELLANEOUS PETITION No.609 of 2014

ORDER:

This petition is filed to withdraw M.D.O.P.No.313 of 2014 from the file of Family court, Guntur and transfer the same to Family Court, R.R. District at L.B. Nagar.

2. Husband filed this petition contending that his marriage with respondent/wife was performed on 31.10.2013 at Bandlamudi Gardens Kalyana Mandapam, Guntur as per Muslims customs and rites and that he is permanent resident of Hyderabad and respondent is also residing at Hyderabad and it is difficult for him to appear and contest the case before Family Court, Guntur because of the distance between Hyderabad and Guntur which is 300 KMs. He further stated that since he and respondent are doing jobs and residing at Hyderabad O.P filed by wife at Family Court, Guntur be withdrawn and transferred to Family court, R.R. District, Hyderabad. He further stated that he has received notice from the Family Court, Guntur with a direction to appear before the said court on 15.10.2014 and that he has a life threat in the hands of respondent and her family members at Guntur and respondent/wife filed the present divorce petition at Family court, Guntur only to harass him physically, psychologically and mentally.

3. Wife filed counter-affidavit disputing the affidavit allegations of respondent/husband and according to her counter, her marriage was solemnized at Guntur and their marriage was not consummated. She contended that family of petitioner is a joint family consisting of petitioner, his sister, his two brothers, his

parents and his paternal grandparents. Petitioner was very much influenced by his relatives and he used to assault her and as she could not bear all types of harassment, she lodged a complaint with Malkazgiri police station, who registered a case under sections 498-A, 354, 323 and 506 of IPC and the same is pending. She further stated that as there is a life threat from petitioner and his parents and brothers and sister on account of complaint given by her, she went to her parents house at Guntur and filed a case under Domestic Violence Act to protect her life in DVC No.313 of 2014 and also filed divorce petition before the Family court, Guntur and both the cases are pending in Guntur. She further stated that she is working with Cognigent Technologies near Hi-tech city Hyderabad and staying near by her office, the transport is also arranged by her employer and that there is no need for her to go anywhere in Hyderabad and that petitioner on several occasions tried to contact her by following near by her office and threatened her with dire consequences to withdraw divorce OP. She further stated even that she is staying at Hyderabad, and she is afraid to move out of her residence as there is danger to her life from petitioner and his relatives and that present petition is filed only with an intention to harass her and made her to attend the Court at Hyderabad. She further stated that if she attend the court at Hyderabad petitioner and his relatives will harm and will pressurize her to withdraw the cases pending against petitioner. She further stated that she is more comfortable to attend the court at Guntur as it is her native place and that she can take her family members assistance, for these reasons, she prayed for dismissal of present petition.

4. Heard arguments.

5. Both counsels submitted their arguments in support of the respective contentions of their clients. Advocate for petitioner submitted that in a similar set of facts Hon'ble Supreme Court in ***Eluri Raji Reddy and ors. Vs. State of Delhi and another***^[1] ordered transfer of cases filed by wife from New Delhi to Huzurabad in Karimnagar District. He submitted that when the wife admitted both in F.I.R., in her counter affidavit and in the proceedings that she is staying at Hyderabad, the very filing of divorce petition in Guntur is only to harass the petitioner herein. He submitted that as it is convenient for both parties, O.P. pending before Family Court, Guntur has to be withdrawn and transferred to Family Court, R.R. District.

6. On the other hand advocate for respondent/wife submitted that in the decision relied on by advocate for petitioner, there is no life threat to the wife therein, but in this case, wife specifically pleaded in her counter-affidavit about life threat and the convenience of wife has to be taken into consideration. He submitted even the presence of petitioner can be dispensed with at Guntur and that petition has to be dismissed.

7. Advocate for petitioner submitted that when there is life threat, party has to approach the Court and take necessary steps for his/her protection but that cannot be a ground to refuse the relief of petitioner. To support his argument, he has placed reliance on judgment of this Court in *M. Aiswarya w/o P. Gopi Krishna vs. P. Gopi Krishna S/o P.N.V.Prasad*^[2], wherein this Court observed that "any threat to either of the parties can always be reported to the appellate court for necessary further action. Such unsubstantiated allegations by either party cannot be

determinative of this adjudication.”

8. Here in this case the wife by way of counter affidavit on oath asserted that she has life threat and danger to her life in the hands of petitioner, his parents and relatives when such a statement is made assertively in the counter-affidavit filed on 9.12.2015 no rejoinder or no reply is filed disputing the said fact. Of course petitioner herein has also stated in his affidavit that he has got life threat at Guntur.

9. Considering the contentions and rival contentions of both parties and without going into correctness of the allegations made against each other, I feel to safeguard interest of both parties, this O.P is to be transferred to a nearby place of Guntur and that would meet the ends of justice.

10. For these reasons stated above, M.D.O.P.No.313 of 2014 is withdrawn from the file of Family court, Guntur and transferred to Family Court, Vijayawada for disposal in accordance with law. Family Court, Vijayawada shall dispense with the presence of husband for each and every adjournment. However, petitioner herein shall appear as and when his physical presence is felt necessary before Family Court, Vijayawada for any specific purpose.

11. Accordingly, the Transfer Miscellaneous Petition is ordered. No costs. As a sequel, miscellaneous petitions, if any filed in this civil miscellaneous petition, shall stand closed.

S. RAVI KUMAR, J

Date: 25-02-2016

gvl

[\[1\]](#) 2004(4)Scale page 678

[\[2\]](#) TrCMP Nos.585 and 590 of 2008