

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Transfer Criminal Petition No.266 of 2013

ORDER:

In this petition filed under Section 407 Cr.P.C., the petitioner/ husband seeks to transfer of M.C.No.83 of 2013 from the Court of Judge, Family Court, Warangal to the Court of Judge, Family Court, Visakhapatnam or any other competent Court.

2) The case of the petitioner is that marriage between himself and 1st respondent took place on 29.10.2001 at Khammam as per Hindu customs and rites and during the wedlock they begot two daughters. The further case of the petitioner is that after marriage the 1st respondent started harassing the petitioner saying that it was her misfortune to have married the petitioner and due to the pressure of her parents, she had to marry him. The petitioner waited for some time expecting a change in her attitude and behaviour but of no avail. Unbearable to meet the harassment in the hands of 1st respondent, the petitioner filed O.P.No.295 of 2013 for judicial separation. As a counter blast the 1st respondent filed O.P.No.137 of 2013 before the Family Judge, Warangal for restitution of conjugal rights under Section 9 of Hindu Marriage Act. To harass him further, she also filed M.C.No.83 of 2013 before the Judge, Family Court, Warangal under Section 125 Cr.P.C. for maintenance and the petitioner is paying maintenance amount @

Rs.20,000/- per month from June, 2013 onwards. While so, the 1st respondent/wife filed a complaint under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act before Woman PS, Warangal (Urban) and also DVC No.10 of 2013 on the file IV Additional Judicial First Class Magistrate, Warangal. The petitioner is presently working as Vice Chairman and Managing Director of Girijan Cooperative Corporation, Visakhapatnam and it is very difficult for him to travel all the way from Visakhapatnam to Warangal. Further, knowing that the petitioner resides at Door No.1-67-27, Sector 2, MVP Colony, Visakhapatnam in his official residence, once the respondent came in a hired AC coach bus from Khammam along with 20 female and equal number of male persons who looked like Gundas and anti-social elements, claiming themselves as Mahila Mandal activists and political leaders and violently barged into the house of petitioner's 80 year old parents and created law and order problem, against which the mother of petitioner lodged a complaint with the Commissioner of Police, Visakhapatnam on 19.09.2013. In respect of the said incident, two Writ Petitions were filed i.e, W.P.No.27503 of 2013 by the parents of the petitioners and the other W.P.No.27584 of 2013 by the respondent. The Writ Petition filed by his parents was disposed of by the High Court directing the police authorities to take appropriate action against the respondent and the Writ Petition filed by the respondent was dismissed. In view of all these acts of the

respondents, the petitioner apprehends danger in the hands of the respondent and if he goes to the Warangal for attending the Court, there is likelihood of respondent and her family members causing harm to him with the help of anti-social elements.

Hence the instant petition is filed by the petitioner seeking transfer of M.C.No.83 of 2013.

3) The 1st respondent filed counter and additional counter and opposed the petition. While opposing the petition averments, the respondent submitted that she filed O.P.No.137 of 2013 on the file of Judge, Family Court, Warangal for restitution of conjugal rights against the petitioner and petitioner filed O.P.No.1024 of 2013 for divorce before the Judge, Family Court, Visakhapatnam. When the matters were pending, the respondent filed Tr.C.M.P.No.93 of 2014 seeking transfer of O.P.No.1024 of 2013 filed by the petitioner to the Court of Judge, Family Court, Warangal and whereas petitioner also filed a Tr.C.M.P.No.622 of 2013 seeking transfer of O.P.No.137 of 2013 filed by the respondent to the Court of Judge, Family Court, Visakhapatnam. The High Court by a common order allowed the Tr.C.M.P.No.93 of 2014 filed by the respondent and dismissed the Tr.C.M.P.No.622 of 2013 filed by the petitioner. Against the common order the petitioner filed two review petitions and the same are pending.

a) Respondent further submitted that she filed a private complaint against the petitioner before the Additional Judicial First Class Magistrate for the offence under Sec.498-A IPC and Sec.3 & 4 of D.P.Act and the same was referred to W.P.S (U), Warangal and basing on the same a case in Crime No. 81 of 2013 was registered and investigation is completed and charge-sheet is yet to be filed. The respondent also filed DVC No.10 of 2013 on the file of IV Additional Judicial First Class Magistrate, Warangal against the petitioner, his parents, sister and elder brother. Respondents 2 to 5 therein filed CrI.P.No.14110 of 2013 for quashing the proceedings against them and obtained interim stay of all the proceedings.

b) Respondent further submitted that she stays along with her two daughters at Hanmakonda, Warangal and filed M.C.No.83 of 2013 seeking maintenance and the petitioner obtained stay of all the proceedings in the instant Tr.CrI.P.No.266 of 2013 and thereby the respondent and her children are facing much difficulty for want of maintenance. She further contended that at the time of filing this Tr.CrI.P, the petitioner was working at Visakhapatnam but at present, he is working at New Delhi on deputation and his tenure will expire by 02.06.2019 and therefore, there is no necessity to transfer the M.C. from Warangal to Visakhapatnam. She thus prayed to dismiss the petition.

4) Heard arguments of Sri N.Ranga Reddy, learned

counsel for petitioner and Sri D.Bhaskar Reddy, learned counsel for 1st respondent.

5) The point for determination in this petition is:

“Whether there are merits in this petition to allow?”

6) **POINT:** As can be seen from the pleadings and arguments of both sides, the petitioner seeks transfer of M.C.No.83 of 2013 from Warangal to Visakhapatnam on following two main grounds:

a) Firstly on the ground that previously the respondent allegedly went upon the house of his parents at Visakhapatnam along with some anti-social elements and threatened them which resulted in both parties filing writ petitions before the High Court and they ended in High Court directing the police authorities to take action against the respondent while dismissing her writ petition and because of the said incident, the petitioner apprehends danger to his life in the hands of respondent, her relatives and men, if he attends the Court at Warangal.

b) Secondly on the ground that he is an IAS Officer working as Vice Chairman and Managing Director of Girijan Cooperative Corporation, Visakhapatnam and in view of his official work, it is difficult for him to attend the Court at Warangal on every date of hearing.

7) In the considered view of this Court, the above two

reasons are not strong enough to transfer the M.C from Warangal to Visakhapatnam. The petitioner is admittedly an IAS Officer and if he apprehends any danger, he can file a petition before the Family Court to extend suitable police security in which event, I am sure, the Court will pass appropriate order. So far as the other ground is concerned, the respondent contends that the petitioner was transferred on deputation to Delhi and he is not working at Visakhapatnam at present which is not denied. Therefore, there is no point in transferring the M.C. from Warangal to Visakhapatnam. Besides, there are other cases pending at Warangal and therefore, M.C alone cannot be transferred from Warangal to Visakhapatnam.

8) In these circumstances, this Transfer Criminal Petition is dismissed with the liberty to the petitioner to move an appropriate application in M.C.No.83 of 2013 on the file of Judge, Family Court, Warangal in which case, the learned Judge shall pass appropriate orders on merits extending adequate security to the petitioner while attending the Court at Warangal.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 05.08.2016
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