

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.CMP.No.658 of 2015

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ORDER:

This Transfer CMP is filed by the petitioner/wife against the respondent/husband for transfer of OP.No.1357 of 2014 from the file of the Court of the Judge, Family Court, Ranga Reddy district at L.B.Nagar to the Family Court-cum-Additional District and Sessions Judge, Nizamabad District.

The case of the petitioner is that her marriage with the respondent was performed on 27.05.2011 as per Hindu rites and Customs at SMAG Vidhyaniketan, Armur road, Gopanpally, Nizamabad; that after the marriage the petitioner started harassing the petitioner for additional dowry and that ultimately the petitioner was necked of the house in Bangalore in the year 2013 and having no other go, petitioner is staying at her maternal house. Thereafter, the petitioner filed MC.No.30/2014 on the file of the Family Court-cum-Additional District and Sessions Judge, Nizamabad, and CC.No.795 of 2014 on the file of the Court of I Additional Judicial First Class Magistrate at Nizamabad against the respondent for the offences punishable under Section 498 A and Section 3 and 4 of Dowry Prohibition Act and also DVC No.4/2015 on the file of the II Additional Judicial First Class Magistrate, Nizamabad and the same are pending consideration. It is also stated that the respondent is a Software engineer and is earning Rs.40,000/- to 50,000/- per month and that the respondent is appearing in the said cases at Nizamabad. The grievance of the petitioner is that if the OP.No.1357 of 2014 is transferred, no prejudice would be caused to the respondent; that she is staying along with her parents; that she has no source of income and that

it is very difficult for her to travel all the way from Nizamabad to Rangareddy, alone, as it involves both physical and financial burden. As such she filed the present transfer petition.

The respondent filed counter stating that OP.No.1357 is filed in the month of August, 2014 and that after appearance in the said OP, the petitioner filed MC.No.30/2014 and also criminal complaint under Section 498-A IPC and Sections 3 and 4 of D.P.Act, in the month of October, 2014. It is also stated that the petitioner again filed DVC No.4 of 2015 on the file of II Additional Judicial First Class Magistrate, Nizamabad. It is further stated that petitioner appeared four conciliation proceedings in OP.No.1357/2014, but she is not willing to join the company of her husband. It is further stated that the petitioner is a post graduate in computer science (MCA) and she worked as lecturer in a private college prior to marriage and that the petitioner is now working in the same college after deserting the respondent. It is further stated that the petitioner herself left the house of the respondent and came to her parents house at Nizamabad and that there is threat to his life from the petitioner and her family members and finally sought for dismissal of transfer petition.

Heard learned counsel for both the parties.

Both the parties are present in the Court. The respondent states that he is willing to take the petitioner on condition that all the cases instituted by the petitioner shall be withdrawn. The petitioner is also willing to join the company of the respondent. Any how, OP filed by the respondent for restitution of conjugal rights is pending before the Court below, the Court below may consider the pleas of both the parties in conciliation proceedings. Further,

already MC No.30/2014, DVC.No.4/2015 and criminal cases are pending on file of Courts at Nizamabad and the respondent has to attend the same, and in view of the fact that the Apex Court in ***Sumita Sing v. Kumar Sanjay and another***^[1] held that in transfer of matrimonial proceedings initiated by the husband against wife, it is the convenience of wife that has to be looked at. In view of the above facts and circumstances, OP.No.1357 of 2014 pending on the file of the Judge, Family Court, Ranga Reddy District be transferred to the Family Court-cum-Additional District and Sessions Judge, Nizamabad.

In view of the above facts and circumstances, OP.No.1357 of 2014 pending on the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar is transferred to the Family Court-cum-Additional District and Sessions Judge, Nizamabad. However, it is open for the respondent to request the Court below for common date enabling him to appear on a particular date. The Court below may also consider the request of the respondent. Further, since it is stated that the respondent is a private employee, the presence of the respondent is dispensed with on each and every date of hearing, except on the dates of conciliation, cross-examination or any other dates the Court below feels necessary. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the transfer petition, shall stand closed.

A.RAJASHEKER REDDY, J

04.01.2016
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[\[1\]](#) AIR 2002 SUPREME COURT 396