

HON'BLE SRI JUSTICE S. RAVI KUMAR

TRANSFER C.M.P.No.310 of 2016

ORDER:

This application is filed to transfer O.P.No.36 of 2015 from Senior Civil Judge, Nandigama, Krishna District, to District Judge, Ranga Reddy at L.B.Nagar.

2. Husband filed this application. According to his affidavit, he filed O.P.No.36 of 2015 for restitution of conjugal rights under Section 9 of Hindu Marriage Act, 1955 (for short, 'Act') and in the said O.P. respondent-wife filed I.A.No.572 of 2015 for maintenance and that he filed an application to set aside the maintenance order and that he engaged a counsel from Hyderabad and when his counsel filed argument petition to set aside the maintenance order, Court below made a comment as follows:

"if this Court set aside this Orders the court has to set aside, so many orders on these merits"

He further stated that respondent taken advantage of the above said observation and with the help of local people and her henchmen attacked him near the Court premises by observing the same his counsel advised him to engage local advocate instead of advocate from other districts. He further stated that as per the orders of Court below, he went to respondent to her place at Suryapet on 17th March and there he was forced to stay in the house

of her henchman and he was forced to execute document in respect of property at Takkallapadu Village, Jaggayyapet Mandal, Krishna District, which belongs to his father, in favour of respondent and also to give consent to the house plot at Jaggayyapet. He further stated that with the help of his cousin he went to advocate and explained the situation and that he has to pass through Suraypet to attend Nandigama Court and that his Advocate advised him to approach Hon'ble High Court and file a transfer petition to get the case transferred to Ranga Reddy Court, therefore, he prayed for transfer of O.P.No.36 of 2015 from Senior Civil Judge, Nandigama, to Ranga Reddy District Court.

3. Wife filed counter disputing the affidavit averments of petitioner. She contended that transfer petition is not maintainable for the reasons stated in her affidavit. She denied and contended that she has not taken any house separately and never forced petitioner to stay in the house of her henchmen, who appeared in the Court, and that she did not force petitioner to execute any document for the property at Takkallapadu Village, Jaggayyapet Mandal, Krishna District. She also denied the other allegations. She specifically stated that petitioner intentionally mentioned her occupation as business in the cause title, whereas she is a tribal woman, having two children, aged about five and three years. She further stated that petitioner developed illegal intimacy with one

Nakka Srivani, neglected her and refused to maintain her and her two minor children and residing at Hyderabad along with said Srivani. She stated that she filed a complaint before Atmakur (S) Police Station, which is registered as Crime No.41 of 2015 and the same is pending before Judicial First Class Magistrate, Suryapet, Nalgonda District. She stated that after lodging police complaint, petitioner filed the present O.P. before Senior Civil Judge, Nandigama, under Section 9 of Act and that she filed counter in the said case. She further stated that she apprehend danger to her life in the hands of petitioner and his concubine at Ranga Reddy, therefore, present petition same is liable to be dismissed.

4. Heard arguments.

5. Both sides submitted their arguments supporting the respective contentions of their clients.

6. This application is filed by husband, which is opposed by wife. Admittedly, the main O.P. i.e., O.P.No.36 of 2015 is filed by husband himself at Senior Civil Judge, Nandigama. When the wife specifically pleaded in her affidavit that petitioner is living with another lady at Hyderabad and she apprehends danger to her life at Ranga Reddy in the hands of her husband i.e., petitioner herein and his concubine, the same is not denied by way of any reply affidavit. It is settled principle that convenience of wife is paramount consideration in matrimonial matters and as per the decision of Hon'ble

Supreme Court in **Sumita Singh v. Kumar Sanjay**^[1], convenience of wife has to be considered while transferring cases. Considering the same and also considering the allegations and counter allegations of both parties, I am of the view that request of petitioner is not bonafide. Though petitioner made allegations of attack he has not produced any supporting material, like giving complaint to police or copy of complaint, etc., and the other allegations are also not supported by any material.

7. For these reasons, transfer C.M.P. is dismissed.

8. Miscellaneous petitions pending, if any, shall stand closed.

S. RAVI KUMAR, J

22nd July 2016.

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^[1] AIR 2002 SC 396