

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER C.M.P. NO.411 OF 2017

ORDER:

This Transfer C.M.P. is filed under Section 24 CPC to transfer FCOP No.296 of 2016 on the file of the Judge, Family Court, Nellore, to the Judge, Family Court, City Civil Court, Hyderabad, on two grounds.

2. The first ground is that she was subjected to harassment both physically and mentally by the respondent and she lodged a complaint with the police, who in turn registered a case in Cr.No.240 of 2016 for the offences punishable under Sections 498-A IPC and 3 and 4 of the Dowry Prohibition Act, 1961, which is pending on the file of the Metropolitan Magistrate, Miyapur.

3. The second ground is that she being an employee in a private company at Hyderabad and living with her parents and brothers, is unable to attend the Court at Nellore to defend the FCOP 296 of 2016, which is pending on its file.

4. Heard the learned counsel for the petitioner at the stage of admission.

5. Undisputedly, the petitioner lodged a complaint with the police and a case in Cr.No.240 of 2016 was registered. But till today, it is not registered as a Calendar Case as per the allegations made in para 6 of the affidavit filed in support of the petition. Therefore, mere pendency of criminal case at crime stage is not a ground to withdraw and transfer the matter.

6. The second ground is that she being an employee in a private company at Hyderabad and living with her parents is unable to defend her case before the Court at Nellore. She is

not required to appear before the Court on every date of adjournment as the proceedings pending before the Court is purely of civil in nature and as long as her counsel representing her and prosecuting on her behalf. At best, she is required to appear before the Court for recording her cross-examination or any other specific purpose in the event of issuing any such direction. Therefore, the ground raised in the petition in para 6 is not a ground to withdraw and transfer the matter. In case if she is unable to obtain leave to attend the Court even for cross-examination, she may apply for appointment of an Advocate Commissioner so that her appearance before the Court at Nellore can be avoided on account of difficulty she expressed in this petition.

7. In view of foregoing discussion, the Judge, Family Court, Nellore is requested not to insist her presence on every date of adjournment as long as she is represented by her counsel and prosecuting the proceedings on her behalf except for recording cross-examination or for any other purpose as directed by the Court. The Judge, Family Court, Nellore is also requested to consider the feasibility to appoint an Advocate Commissioner for recording her cross-examination in the event of filing any application for appointment of an Advocate Commissioner to record her evidence. But this direction would not preclude the Judge, Family Court, Nellore to pass any orders in accordance with law in the event of her counsel fails to represent and prosecute the proceedings on her behalf.

8. With the above direction, this Tr.C.M.P. is disposed of. No order as to costs. Miscellaneous petitions, if any pending, in this petition shall stand closed.

M.SATYANARAYANA MURTHY, J

DATED: 30-06-2017.

Hsd

