

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.567 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.1413 of 2015 from the file of the Family Court at Visakhapatnam and transfer the same to the file of the Family Court, Nellore.

2. Heard the learned counsel for both parties and perused the material available on record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 23.05.2013 at MSR Kalyanamandapam, Nellore, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with a son on 23.05.2014. Due to one reason or other, disputes arose between the petitioner and respondent; therefore, the petitioner has been residing at her parents' house in Nellore. The respondent filed F.C.O.P.No.1413 of 2015 on the file of the Family Court at Visakhapatnam, under Section 13(1)(ia) of the Hindu Marriage Act, 1955, against the petitioner for dissolution of marriage between them. Even as per the recitals of F.C.O.P.No.1413 of 2015, the petitioner is a resident of Nellore. A perusal of the record further reveals that the respondent is facing trial in D.V.C.No.45 of 2016 on the file of the Special Judicial Magistrate of First Class for Excise Cases at Nellore. The respondent is also facing trial in C.C.No.62 of 2016 on the file of the Special Judicial Magistrate of First Class, Mobile

Court at Nellore, for the offences punishable under Section 498-A of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961. The petitioner filed M.C.No.24 of 2016 on the file of the Family Court, Nellore, against the respondent claiming maintenance under Section 125 of Cr.P.C.

4. It is the case of the petitioner that she is not in a position to travel from Nellore to Visakhapatnam along with her son without the assistance of one of the male members of the family in order to prosecute F.C.O.P.No.1413 of 2015. Invariably, the respondent has to prosecute C.C.No.62 of 2016, D.V.C.No.45 of 2016 and M.C.No.24 of 2016, which are pending in different Courts at Nellore.

5. While deciding the petitions of this nature, the Court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings, more particularly, to the wife and children. As per the principle enunciated in **T.Gayatri Devi v. Dr. Tallepaneni Sreekanth¹, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that the relief sought by the petitioner deserves to be allowed.

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

7. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.1413 of 2015 is withdrawn from the file of the Family Court at Visakhapatnam and transferred to the file of the Family Court, Nellore, for disposal in accordance with law. There shall be no order as to costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 17.04.2017
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