

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR.C.M.P.NO.333 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.1604 of 2016 on the file of XVI Additional District Judge-cum-Family Court, Ranga Reddy District at Malkajgiri and transfer the same to the Court of Senior Civil Judge, Kandukur or to any other competent Court on the ground that the petitioner alone cannot undertake journey as the distance from Lingasamudram to Hyderabad is above 400 km., and that she is not having sufficient means to travel.

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

3. As seen from the allegations made in the petition, admittedly, the petitioner lodged a complaint against the respondent, which was registered as FIR in Crime No.15 of 2017 of Lingasamudram Police Station, Prakasam District, for the offence punishable under Section 498-A read with 34 IPC and Sections 3 and 4 of Dowry Prohibition Act and investigation is under progress. The respondent also filed O.P.No.1604 of 2016 on the file of XVI Additional District Judge-cum-Family Court, Ranga Reddy District at Malkajgiri, seeking divorce only to harass her.

4. The ground urged before this Court is that the petitioner is unable to undertake journey of more than 400 kilometres on each and every date of adjournment and that she is not having sufficient means to attend the Court at Malkajgiri. No doubt, it is difficult

for a woman to undertake such a journey frequently. But, that by itself is not a ground to withdraw and transfer the case from one Court to another. In view of latest Judgment of the Hon'ble Apex Court in **Krishna Veni Nagam v. Harish Nagam**¹, where the Hon'ble Apex Court issued certain guidelines to the Judges, which reads thus:

“Spirit behind the orders of this Court in allowing the transfer petitions filed by wives being almost mechanically allowing is that they are not denied justice on account of their inability to participate in proceedings instituted at a different place on account of difficulty either on account of financial or physical hardship. Our Constitutional scheme provides for guaranteeing equal access to justice, power of the State to make special provisions for women and children and duty to uphold the dignity of women. Various steps have been taken in this direction. However, the Apex Court also issued certain directions in para 18 of its judgment, which read thus:

- i) Availability of video conferencing facility.
- ii) Availability of legal aid service.
- iii) Deposit of cost for travel, lodging and boarding in terms of Order XXV Code of Civil Procedure.
- iv) E-Mail address/phone number, if any, at which litigant from out station may communicate.”

In view of above guidelines, the inconvenience to undertake a journey may not be a ground to withdraw and transfer O.P.No.1604 of 2016 on the file of XVI Additional District Judge-cum-Family Court, Ranga Reddy District at Malkajgiri to the file of Senior Civil Judge, Kandukur and at best the witness can be examined by video conference. However, in view of difficulty

¹ AIR 2017 SC 1345

expressed by the petitioner to undertake journey of 400 kilometres, XVI Additional District Judge-cum-Family Court, Ranga Reddy District at Malkajgiri, is directed not to insist the petitioner to appear on every date of adjournment, except on the dates where her presence is required, more particularly when the petitioner is required to be cross-examined by the counsel for the respondent (counsel for the petitioner in O.P.). This direction would meet the ends of justice to serve the purpose.

5. Hence, I find that the ground urged by the petitioner is not tenable to withdraw O.P.No.1604 of 2016 on the file of XVI Additional District Judge-cum-Family Court, Ranga Reddy District at Malkajgiri. However, following the guidelines issued by the Hon'ble Apex Court in **Krishna Veni's case** (supra), the respondent is directed to deposit costs of travel, lodging and boarding expenses and on such deposit, the petitioner shall appear before the Court on the date when her presence is required for cross-examination or for any other purpose.

6. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of. Miscellaneous petitions, if any, pending in this petition shall stand closed. There shall be no order as to costs.

M. SATYANARAYANA MURTHY, J

JUNE 05, 2017
YVL

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



TR.C.M.P.NO.333 OF 2017

Date: 05.06.2017

YVL