

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.31 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw H.M.O.P.No.89 of 2016 on the file of the court of Senior Civil Judge, Sathupally, Khammam District and transfer the same to the file of Judge, Family Court at Vijayawada, Krishna District, for disposal in accordance with law.

2. In spite of service of notice, the respondent did not choose to appear and contest the matter. Hence, this Court is inclined to dispose of the matter on merits. Heard the learned counsel for the petitioner 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 08.04.2007 at Mandalapadu village, Penuballi Mandal of Khammam District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with one son on 12.01.2010. Due to one reason or other, disputes arose between the petitioner and respondent, therefore, the petitioner has been residing at her parents house along with her son.

4. A perusal of the record reveals that the petitioner herein filed M.C.No.72 of 2015 on the file of the Family Court, Vijayawada, against the respondent seeking maintenance under

Section 125 Cr.P.C. Basing on the complaint lodged by the petitioner, the concerned Station House Officer registered Crime No.313 of 2014 was registered against the respondent for the offences punishable under Section 498-A IPC.

5. While things stood thus, the respondent herein filed H.M.O.P.No.89 of 2016 on the file of the Senior Civil Judge, Sattupalli, against the petitioner under Section 13(i-a)(i-b) of Hindu Marriage Act for dissolution of marriage between them. It is the case of the petitioner that she is not in a position to travel from Vijayawada to Sattupalli along with her son in order to prosecute the O.P. Invariably, the respondent has to attend the Family Court, Vijayawada in order to prosecute M.C.No.72 of 2015. More over, criminal case is also pending against the respondent.

6. 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, the wife and the children. Even if the petition is allowed, the same may not cause any prejudice to the respondent.

7. As per the principle enunciated in V.Sailaja v V.Koteswara Rao¹, Rachna Kanodia v. Anuk Kanodia², and Sumita Singh v. Kumar Sanjay³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

¹ AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

² 2001(7) Supreme 96

³ AIR 2002 SC 396

8. 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 petitioner deserves the relief sought for.

9. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.89 of 2016 is withdrawn from the file of the Senior Civil Judge, Sathupally, Khammam District, and transferred to the file of the Judge, Family Court, at Vijayawada, Krishna District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

4th April 2017
Rns



T. SUNIL CHOWDARY, J