

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

TRANSFER CRIMINAL PETITION No.58 OF 2017

ORDER:

The petitioner - wife filed the present Transfer Criminal Petition requesting to withdraw the D.V.C. No.19 of 2016 on the file of XI Metropolitan Magistrate-cum-Judicial Magistrate of First Class, Special Mobile Court, Rangareddy District at L.B. Nagar and transfer the same to the file of I-Additional Judicial Magistrate of First Class, Sattenapalli, Guntur District.

2. Heard Sri Kambhampati Ramesh Babu, the learned counsel for the petitioner and Smt P. Revathi, the learned counsel for the respondents 1 to 5.

3. The main grounds urged by the learned counsel for the petitioner are that the parents of the petitioner are residing at Sattenapalli, Guntur District. She was given in marriage to the 1st respondent – Akella Sri Ram Karthik, who belong to Uppal, Hyderabad, Rangareddy District.

4. The marriage of the petitioner took place on 10.8.2014 with the 1st respondent and out of their wedlock a daughter was born on 28.05.2015. She complains that from the date of marriage she was subjected to harassment by her husband, her in-laws and relatives to provide additional dowry. According to the petitioner, she went to parents' house on 29.3.2016 for attending her brother's engagement

ceremony with the permission of her husband and in-laws, and, though, herself and her family members requested her husband and in-laws, they did not attend her brother's marriage, and, when on 30.4.2016 she returned to her matrimonial home at Uppal after completion of her brother's marriage, her husband and in-laws did not allow her to enter into the house and informed that the 1st respondent filed Divorce Petition, and since there was no alternative she approached the Protection Officer, District Women & Child Welfare Department, Rangareddy District and submitted a written compliant requesting to provide shelter and protection. That is how, D.V.C. No.19 of 2016 came to be registered on the file of XI Metropolitan Magistrate-cum-Judicial Magistrate of First Class, Special Mobile Court, Rangareddy District at L.B. Nagar.

5. The learned counsel for the petitioner submits that the petitioner has also lodged a complaint against the respondents alleging the offences punishable under Sections 498-A of IPC and Sections 3 & 4 of Dowry Prohibition Act, 1961.

6. The Station House Officer, Sattenapalli P.S. has taken up investigation. Therefore, to withdraw the DVC No.19 of 2016 on the file of XI Metropolitan Magistrate-cum-Judicial Magistrate of First Class, Special Mobile Court, Rangareddy District at L.B. Nagar and transfer the same to the file of I-Additional Judicial Magistrate of First Class, Sattenapalli, Guntur District, as requested.

7. The request of the petitioner is resisted by the respondents 1 to 5 on the main ground that even the FCOP No.886 of 2016 filed by her husband was pending on the file of Family Court, Rangareddy District at L.B. Nagar, and in case the DVC No.19 of 2016 on the file of XI Metropolitan Magistrate-cum-Judicial Magistrate of First Class, Special Mobile Court, Rangareddy District at L.B. Nagar is withdrawn and transferred the same to the file of I-Additional Judicial Magistrate of First Class, Sattenapalli, Guntur District, the respondents, five in number, who are unnecessarily involved in Domestic Violence Case would face hardship as they have to travel long distance from Hyderabad to Sattenapalli, more particularly, when FCOP No.886 of 2016 is still pending on the file of Family Court, Rangareddy District at L.B. Nagar.

8. There is no dispute in regard to one particular aspect that being the petitioner has also filed Transfer C.M.P. No.130 of 2017 and the same is pending on the file of this Court. A learned Single Judge of this Court has also granted interim stay of all further proceedings in FCOP No.886 of 2016 by order dated 27.2.2017.

9. Now, the only question that arises for consideration, under the above circumstances, is whether the request of the petitioner to transfer DVC No.19 of 2016 on the file of XI Metropolitan Magistrate-cum-Judicial Magistrate of First Class, Special Mobile Court, Rangareddy District at L.B. Nagar to the file of I-Additional

Judicial Magistrate of First Class, Sattenapalli, Guntur District, can be acceded to.

10. There is no dispute that the parents of the petitioner reside at Sattenapalli, when she was not allowed to share matrimonial home at Hyderabad with a small child, it would be too difficult for her to stay at Hyderabad or to prosecute Domestic Violence Case at Hyderabad, by travelling from Sattenapalli to Hyderabad. It is no doubt true, the respondents are five in number, but even if Domestic Violence Case is transferred to the file of I-Additional Judicial Magistrate of First Class, Sattenapalli, Guntur District, the respondents can seek exemption of appearance of the respondents, except the husband of the petitioner herein, who would represent them and defend the Domestic Violence Case at Sattenapalli.

11. Therefore, it would be just and convenient to accede to the request and, therefore, DVC No.19 of 2016 on the file of XI Metropolitan Magistrate-cum-Judicial Magistrate of First Class, Special Mobile Court, Rangareddy District at L.B. Nagar is withdrawn and transferred to the file of I-Additional Judicial Magistrate of First Class, Sattenapalli, Guntur District.

12. Accordingly, the Transfer Criminal Petition is allowed.

As a sequel thereto, miscellaneous petitions if any pending in the Transfer Criminal Petition shall stand closed.

A.SHANKAR NARAYANA

Date:05.06.2017.
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