

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

TRANSFER C.M.P.No.384 of 2017

ORDER :

This transfer petition, under Section 24 of Code of Civil Procedure, 1908, is filed seeking withdrawal of F.C.O.P.No.776 of 2017 pending on the file of the Judge, Family Court, Miyapur, and transfer the same to the Judge, Family Court, Secunderabad.

2. The petitioner herein is wife and she sought for transfer of F.C.O.P.No.776 of 2017 of 2016 on three grounds. The first ground is that she is apprehending danger from her husband and his relatives. The second ground is that she has to look after minor child and the third ground is that it is difficult for her to undertake journey and to engage counsel at Miyapur.

3. The petitioner contended that she is living with her parents and that she lodged a complaint which is registered as case in Crime No.482 of 2016 and pending before the XIX Metropolitan Magistrate at Kukatpally and also filed D.V.C.No.166 of 2016 before the IV-Additional Metropolitan Magistrate, Erramanzil. The petitioner further contended that she filed M.C.No.6 of 2017 pending before the Judge, Family Court, Secunderabad.

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

5. It is contended by the learned counsel for the petitioner that the petitioner is facing life threat to attend before the Judge, Family Court, Miyapur. Though she alleged that she is facing life threat, no

specific instance of threatening her by the respondent-husband is averred in the petition except making a bald allegation. Even if the petitioner faced such threat while attending the Court, she would have complained about the threats being faced by her. But, no such complaint is filed either with the Presiding Officer of Court or Police is concerned. Therefore, the conduct of the petitioner in maintaining silence falsifies the contention of the petitioner. If really the petitioner is facing life threat, the Court may record her evidence by video conferencing. If for any reason no facility of video conferencing is available, the Presiding Officer can provide necessary police protection to the petitioner whenever she attends the Court in connection with the above F.C.O.P. on receipt of any complaint from the petitioner subject to bearing expenses. Therefore, the alleged life threat is unfounded. Consequently, on that ground the transfer petition cannot be withdrawn and transferred.

6. Similarly, taking care of the minor children is also not a ground to withdraw and transfer the case on the ground of inconvenience, as the distance between Miyapur and Secunderabad is hardly 20 km. connected by road.

7. The other ground raised before this Court is that she being a woman unable to undertake journey. But, this is not a ground in view

of the guidelines in **Krishna Veni Nagam v. Harish Nagam**¹, wherein the Apex Court framed the following guidelines:

“In matrimonial or custody matters or in proceedings between parties to a marriage or arising out of disputes between parties to a marriage, wherever the defendants/respondents are located outside the jurisdiction of the court, the court where proceedings are instituted, may examine whether it is in the interest of justice to incorporate any safeguards for ensuring that summoning of defendant/respondent does not result in denial of justice. Order incorporating such safeguards may be sent along with the summons. The safeguards can be:-

- 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.”*

8. In view of above guidelines issued by the Apex Court, the Judge, Family Court, Miyapur, is directed to record her evidence by video conferencing, if such facility is not available, the respondent may be directed to deposit traveling and boarding expenses vide guideline No.2 and on such deposit, the petitioner be directed to appear before the Court by providing necessary protection in case the petitioner submitted any petition about the threats being faced by her, without insisting her appearance on every date of adjournment if the

¹ AIR 2017 SC 1345

matter is represented by the counsel engaged by her on the dates of adjournments, otherwise the Court is bound to pass appropriate orders, in accordance with law.

9. Hence, in view of the guidelines issued by the Apex Court, the Judge, Family Court, Miyapur, is directed to follow the guidelines and dispose of the petition, in accordance with law.

10. With the above observation and direction, the transfer C.M.P. is disposed of.

11. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

16th June 2017.

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M. SATYANARAYANA MURTHY, J

