

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr.C.M.P.No.437 of 2017

ORDER

This petition under Section 24 of CPC is filed by petitioner-wife to withdraw FCOP No.705 of 2016 on the file of Additional Family Court, Visakhapatnam and transfer the same to the Family Court at Ranga Reddy District at L.B.Nagar, stating that Cr.No.36 of 2016 registered by Kusaiguda Police Station, Cyberabad District, on 04.06.2016, against the respondent-husband for the offences punishable under Section 498-A IPC and under Sections 3 and 4 of Dowry Prohibition Act, is pending before the Metropolitan Magistrate at Malkajgiri and DVC is also pending on the file of Judicial Magistrate of First Class, Malkajgiri.

2. Undisputedly, the petitioner being a woman may feel inconvenience to perform journey covering distance more than 700 kms and the only inconvenience placed is her inability to undertake journey. But that itself is not a ground as there is a possibility of recording her cross-examination by video conferencing or appointing an advocate commissioner subject to payment of costs as fixed by the Judge, Family Court, and in case no video conferencing facility is available, the respondent can be insisted to pay costs for traveling, boarding and lodging in terms of Order XXV of CPC, and in such case, she is required to appear before the Court for cross-examination or any other specific purpose as directed by the Court. Pendency of DVC and the crime is not a ground for the reason that they are being tried by a Magistrate and cannot be clubbed with the matter pertaining to matrimonial dispute, which is being tried by the Judge, Family Court.

3. Therefore, taking into consideration the facts and circumstances of the case and following the guidelines issued by the Apex Court in **Krishna Veni Nagam v. Harish Nagam**¹, which indirectly indicates that such procedure can be followed in matrimonial matters, the Judge, Additional Family Court, Visakhapatnam, is directed to record the cross-examination of petitioner by video conferencing or by directing the respondent-husband to deposit travelling, lodging and boarding expenses in terms of Order XXV of CPC. Therefore, the grounds urged in the petition are not sufficient to withdraw and transfer the matter to the Family Court at Ranga Reddy District at L.B.Nagar. However, the Judge, Additional Family Court, Visakhapatnam, is directed not to insist the presence of petitioner on every date of adjournment, except on the dates when her presence is required for recording her cross-examination as long as she is represented by her counsel and prosecuting the case on her behalf or on any other day when her presence is required for any specific purpose subject to compliance of Order XXV of CPC. This direction does not preclude the Judge, Additional Family Court, to pass any order in accordance with law, in the event, she is not represented by her counsel and prosecuting the case.

4. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of. No order as to costs. Miscellaneous petitioners, if any, pending in the petition shall stand closed.

M. SATYANARAYANA MURTHY, J

13th July, 2017
sj

¹ JT 2017 (3) SC 190