

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.38 of 2017

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw O.P.No.1026 of 2016 from the file of the Family Court at Vijayawada, Krishna District, and transfer the same to the file of the Family Court, City Civil Court at Hyderabad.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the marriage of the petitioner was officiated with the respondent on 20.08.2014, as per Christian Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For the reasons best known to the parties to the proceedings, disputes arose between them; therefore, the petitioner has been residing at her parents' house in Hyderabad. The respondent herein filed O.P.No.1026 of 2016 on the file of the Family Court at Vijayawada, under Section 10(1)(x) of the Indian Divorce Act read with Section 7 of the Family Courts Act, for dissolution of marriage between him and the petitioner.

4. Learned counsel for the respondent submitted that the petitioner and respondent never resided in Hyderabad; therefore, no cause of action arose within the territorial jurisdiction of Family Court, City Civil Court at Hyderabad.

5. To appreciate the contention of the learned counsel for the respondent, it is not out of place to extract hereunder paragraph No.4 of the petition filed in O.P.No.1026 of 2016:

“It is respectfully submitted that after one month of their marriage the petitioner and the respondent went to Hyderabad, which is work place of the petitioner to lead happy marital life.”

6. The submission made by the learned counsel for the respondent is negated by the averments in the petition.

7. Learned counsel for the respondent submitted that one of the relatives of the petitioner is working in the Police Department; therefore, there is a threat to the respondent.

8. The respondent did not disclose the name and other relevant particulars of the relative of the petitioner, who alleged to have been working in Police Department. It is not uncommon to make allegations and counter allegations by the parties to the proceedings, more particularly, in matrimonial cases in order to gain the sympathy of the Court. A perusal of the record reveals that basing on the complaint lodged by the petitioner, the Station House Officer, Women Police Station, Hyderabad, registered a case in Crime No.2 of 2017 against the respondent and his family members for the offences punishable under Sections 498-A and 406 of I.P.C. and Sections 4 and 6 of the Dowry Prohibition Act, 1961. It further reveals that the petitioner herein filed D.V.C. (S.R.) No.2530 of 2016 on the file of the III Additional Chief Metropolitan Magistrate at Hyderabad against the respondent and his family members.

9. It is the case of the petitioner that she is not in a position to travel from Hyderabad to Vijayawada without the assistance of one of the male members of the family in order to prosecute O.P.No.1026 of 2016. Invariably, the respondent has to attend the

Criminal Court in Hyderabad in view of pendency of D.V.C. (S.R.) No.2530 of 2016 and criminal case. 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, to the wife and children.

10. As per the principle enunciated in **T.Gayatri Devi v. Dr. Tallepaneni Sreekanth¹, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

11. 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 relief sought by the petitioner deserves to be allowed.

12. In the result, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.1026 of 2016 is withdrawn from the file of the Family Court at Vijayawada, Krishna District, and transferred to the file of the Family Court, City Civil Court at Hyderabad, for disposal in accordance with law. There shall be no order as to costs.

13. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 03.04.2017
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¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396