

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.70 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw F.C.O.P.No.70 of 2015 on the file of the Judge, Family Court, Guntur, and transfer the same to any other court having jurisdiction at Eluru, for disposal in accordance with law.

2. Heard both the counsel 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 06.12.2014 at Vuyyuru of Krishna District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Unfortunately, bad weather prevailed in the family life of the petitioner and respondent, therefore, the petitioner has been residing at her parents house in Rajahmundry.

4. A perusal of the record reveals that the respondent filed H.M.O.P.No.141 of 2016 on the file of the Principal Senior Civil Judge, Gudiwada, against the petitioner under Section 13(1)(ia)(ib) of the Hindu Marriage Act, for dissolution of marriage between them. A perusal of the record reveals that the respondent herein facing trial in C.C.No.211 of 2016 on the file of the V Additional Judicial Magistrate of First Class, Rajamahendravaram, for the offences punishable under Section 498-A read with 34 IPC and

Sections 3 and 4 of the Dowry Prohibition Act. The petitioner filed M.C.No.56 of 2015 on the file of the Judge, Family Court, Rajamahendravaram, against the respondent under Section 125 Cr.P.C. seeking maintenance. The petitioner also filed D.V.C.26 of 2016 on the file of the VI Additional Judicial Magistrate of First Class, Rajamahendravaram. It is the case of the petitioner that she is not in a position to travel from Rajahmundry to Gudiwada, in order to prosecute HMOP 141 of 2016, without the help of the one of the male members of the family. The distance between Rajahmundry to Gudiwada is around 200 kms. Invariably, the respondent has to attend the criminal courts at Rajamahendravaram in view of pendency of C.C.No.211 of 2016, M.C.No.56 of 2015 and D.V.C.No.26 of 2016.

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

6. 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.

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

7. 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.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.141 of 2016 is withdrawn from the file of the Principal Senior Civil Judge Court, Gudiwada, and transferred to the file of the Judge, Family Court, Rajamahendravaram, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

11th April 2017
Rns

T.SUNIL CHOWDARY, J

