

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.41 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw O.P.No.667 of 2016 on the file of the Principal District Judge Court, West Godavari District at Eluru, and transfer the same to Family Court, at Visakhapatnam, for disposal in accordance with law.

2. Heard the learned counsel for both parties and perused the material available on record.

3. A perusal of the record reveals that the marriage of the petitioner was officiated with the respondent on 27.12.2012 at Transfiguration Church, Bhimavaram, as per Mala Christian Rites. 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 Visakhapatnam. Both parties made allegations against each other for the reasons best known to them.

4. A perusal of the record reveals that the respondent filed O.P.No.667 of 2016 on the file of the Principal District Judge Court, West Godavari District, at Eluru, against the petitioner under Section 10 (1)(i)(x) of Indian Divorce Act, for dissolution of marriage between them. Basing on the complaint lodged by the petitioner, the Station House Officer, Duvvada, registered a case in

Crime No.32 of 2016 against the respondent for the offence punishable under Section 498-A read with 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act. After completion of investigation, the Station House Officer, Duvvada filed charge sheet against the respondents and others for the offences punishable under Sections 498-A IPC and 3 and 4 of the Dowry Prohibition Act. Even as per the recitals in O.P.No.667 of 2016, the petitioner is the permanent resident of Duvvada of Visakhapatnam. It is the case of the petitioner that she is not in a position to travel from Duvvada to Euru without the assistance of one of the male members of the family.

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.

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.

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

8. The learned counsel for the respondent submitted that the respondent is a doctor by profession, therefore, his presence before the Judge, Family Court, Visakhapatnam, may be dispensed with on each and every date of adjournment. Even if the presence of the respondent is dispensed with, no prejudice will be caused to the petitioner.

9. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.667 of 2016 is withdrawn from the file of the Principal District Judge, West Godavari District, at Eluru, and transferred to the file of the Judge, Family Court, Visakhapatnam, for disposal in accordance with law. The presence of the respondent before the Family Court, Visakhapatnam is dispensed with on each and every date of adjournment. However, he shall appear before the trial Court as and when his presence is so required. As a sequel, miscellaneous petitions, pending if any shall stand closed.

24th April 2017
Fns

T.SUNIL CHOWDARY, J