

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

TRANSFER C.M.P.No.368 of 2017

ORDER :

This transfer petition under Section 24 of Code of Civil Procedure, 1908, is filed seeking withdrawal of H.M.O.P.No.16 of 2017 pending on the file of Senior Civil Judge, Bapatla, and transfer the same to the file of Family Court, Hyderabad.

2. The petitioner herein is wife and she sought for transfer of H.M.O.P.No.16 of 2017 on three grounds. The first ground is that no part of cause of jurisdiction arose within the jurisdiction of Senior Civil Judge's Court, Bapatla. The second ground is that there was a life threat to appear before the Court at Bapatla and the third ground is that it is difficult for her to undertake journey for more than 350 km. on every date of adjournment from Hyderabad to Bapatla and she has no means to maintain herself.

3. The petitioner contended that she is living with her parents, being maintained by her parents and that apart she lodged a complaint before Ponnur Urban Police Station, Guntur, which is registered as Crime No.194 of 2016 for the offence punishable under Sections 498-A and 307 IPC and Sections 3 and 4 of the Dowry Prohibition Act. Consequently, the petitioner seeks withdrawal of H.M.O.P.No.16 of 2017 from Senior Civil Judge's Court, Bapatla, to the Court of Family Court, Hyderabad.

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

5. The first and foremost contention of the learned counsel for the petitioner is that the marriage of the petitioner was performed with the respondent on 21.12.2012 at Sajja Function Hall, Ponnur, as per Hindu rites and custom and the marriage was consummated. Therefore, the cause of action arose at Ponnur, which is within the jurisdiction limits of Senior Civil Judge, Bapatla. Hence, filing a petition before the Senior Civil Judge, Bapatla, is in accordance with Section 19 of the Hindu Marriage Act. On the ground of lack of territorial jurisdiction, the transfer petition cannot be withdrawn.

6. The second ground raised before the Court is that the petitioner is facing life threat to attend before the Senior Civil Judge's Court, Bapatla. It is evident from the notice received by her, the matter was posted to 06.07.2017, whereas this transfer petition is filed on 08.06.2017, which is just two days after the date of adjournment of H.M.O.P. before the Senior Civil Judge's Court, Bapatla. 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 at Bapatla, 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 falsifies the contention of the petitioner. If really the petitioner is facing life threat, not prevented the Court to 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 H.M.O.P. on receipt of any petition from the petitioner. Therefore, the alleged life threat is unfounded. Consequently, on that ground the transfer petition cannot be withdrawn and transferred.

7. The third ground raised before this Court is that she being a woman unable to undertake journey covering the distance of more than 350 km. from Hyderabad to Bapatla and that she has no means to maintain herself. But, this is not a ground in view of the law declared 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.*

¹ AIR 2017 SC 1345

- 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 Senior Civil Judge's Court, Bapatla, is directed to record her evidence by video conferencing, if such facility is not available, the respondent may be directed to deposit travelling, boarding and lodging 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 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 Senior Civil Judge, Bapatla, 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.

M. SATYANARAYANA MURTHY, J

12th June 2017.
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