

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**TRANSFER C.M.P. NO.410 OF 2017**

**ORDER:**

This Transfer C.M.P. is filed under Section 24 CPC to transfer FCOP No.373 of 2016 on the file of the Judge, Family Court, R.R. District at L.B.Nagar, Hyderabad to the Judge, Family Court, Visakhapatnam, on three grounds.

2. The first ground is that she was subjected to harassment both physically and mentally by the respondent while she was staying with him and having no other alternative, she left to her parents house. The second ground is that she filed O.P.No.12 of 2017 on the file of the Judge, Family Court, Visakhapatnam, under Section 125 Cr.P.C. for grant of maintenance. The third ground is that she being a lady, unable to meet the expenses for traveling, boarding and lodging to appear before the Court at LB Nagar in connection with FCOP No.373 of 2016.

3. Heard the learned counsel for the petitioner at the stage of admission.

4. The first ground is that she was subjected to harassment both physically and mentally by the respondent while she was staying with him to lead happy conjugal life. That is not a ground to withdraw and transfer the matter to the Court at Visakhapatnam. Such ground can be enquired into only in the main FCOP No.373 of 2016. At this stage, it would not form basis for withdrawing and transferring the matter exercising the power under Section 24 CPC.

5. The second ground is that she filed O.P.No.12 of 2017, under Section 125 Cr.P.C. for grant of maintenance which is pending on the file of the Judge, Family Court, Visakhapatnam. Maintenance Case and FCOP No.373 of 2016

filed by the respondent under Section 9 of the Hindu Marriage Act, 1955 need not be decided together by a common enquiry, since petition under Section 125 is under Cr.P.C., whereas Section 9 deals with Restitution of Conjugal Rights under Hindu Marriage Act. Therefore, pendency of OP on the file of the Judge, Family Court, Visakhapatnam, is not a ground.

6. The third ground is that she has no financial capacity to attend the Court at L.B.Nagar on the dates of adjournments. But in view of the judgment of the Apex Court in **Krishna Veni Nagam v. Harish Nagam**<sup>1</sup>, the respondent can be directed to deposit expenses for traveling, boarding and lodging and she can also be examined by video conference and if not available, she is required to appear before the Court for recording her cross-examination or for any other specific purpose subject to meeting the expenses for her traveling, boarding and lodging by the respondent. Therefore, it is not a ground to withdraw and transfer the matter.

7. The petitioner being a woman certainly would face difficulty in attending the Court on every date of adjournment. Therefore, the Judge, Family Court, RR District at L.B.Nagar, is requested not to insist the petitioner to appear on every date of adjournment, except on the dates where her presence is required or for recording her cross-examination. This direction would not preclude the Court to pass any order against the petitioner in accordance with law for her failure to get the proceedings prosecuted through her counsel. If no facility of video conference is available, when the petitioner's presence is required, the respondent may be directed to deposit travelling, lodging, boarding and other incidental expenses. On such deposit, the petitioner shall appear before the Court on the date when her presence is required for cross-examination or for

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<sup>1</sup> AIR 2017 SC 1345

any other purpose. This direction would meet the ends of justice to serve the purpose.

8. With the above direction, this Tr.C.M.P. is disposed of. No order as to costs. Miscellaneous petitions, if any pending, in this petition shall stand closed.

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**M.SATYANARAYANA MURTHY, J**

**DATED: 30-06-2017.**

Hsd

