

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.9 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw H.M.O.P.No.67 of 2016 pending on the file of the Court of Senior Civil Judge, Gadwal, Mahaboobnagar District, and transfer the same to the court of Senior Civil Judge, Nandyal, Kurnool District, for disposal in accordance with law.

2. Heard both the counsel.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 04.06.2010 at Patapalem village of Dharoor Mandal of Mahaboobnagar District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with a daughter aged about five years. Both the counsel submitted that the petitioner herein lodged a complaint to the Station House Officer, Nandyal, who in turn registered a case in Crime No.113 of 2011 for the offences punishable under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. At the intervention of elders, both parties amicably settled the matter. Again the petitioner joined the respondent to lead marital life. Unfortunately, bad weather prevailed in the family life of the petitioner and respondent for the reasons best known to them.

4. The predominant contention of the learned counsel for the respondent is that there is a life threat to the respondent if the matter is transferred to Senior Civil Judge Court at Nandyal. 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. The apprehension of the respondent is not supported by any material much less cogent and convincing material. The distance between Nandyal and Gadwal is around 130 kilometers. It may not be possible for the petitioner to travel from Nandyal to Gadwal along with her daughter 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, the 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 Rao*¹, *Rachna Kanodia v. Anuk Kanodia*², and *Sumita Singh v. Kumar Sanjay*³, 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 view that the petitioner is entitled to the relief sought for.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.67 of 2016 is withdrawn from the file of the Senior Civil Judge, Gadwal, Mahaboobnagar District, and transferred to the file of the Senior Civil Judge Court at Nandyal, Kurnool District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

14th March 2017
Rns

T. SUNIL CHOWDARY, J

