

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.97 of 2017

ORDER:

This transfer civil miscellaneous petition is filed under Section 24 of CPC seeking to withdraw H.M.O.P. No.43 of 2016 from the file of Court of Senior Civil Judge, Chodavaram and transfer the same to the Family Court, City Civil Court, Hyderabad.

2. In spite of service of notice, respondent did not choose to appear and contest the petition. Heard the learned counsel the petitioner and perused the material available on record.

3. The marriage of the petitioner was performed with the respondent on 05.11.2011 at Sanath Nagar, Hyderabad, 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 one son. Due to one reason or the other, disputes arose between the petitioner and respondent; therefore, the petitioner has been residing at her parents' house in Hyderabad. The respondent filed H.M.O.P. No.43 of 2016 on the file of the Court of Senior Civil Judge, Chodavaram, Visakhapatnam District against the petitioner under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. A perusal of the record reveals that basing on the complaint lodged by the petitioner, the Station House Officer, Women Police Station, Hyderabad registered a case in Crime No.725 of 2016 against the respondent for the offences under Section 498-A IPC and Sections 4 and 6 of Dowry Prohibition Act.

4. At the time of arguments, learned counsel for the petitioner submitted that the petitioner filed M.C. No.120 of 2017 against the respondent seeking maintenance under Section 125 of Cr.P.C., on

the file of the Family Court, Nampally, Hyderabad. The distance between Hyderabad and Chodavaram is more than 500 KMs. It is the case of the petitioner that she is not in a position to travel from Hyderabad to Chodavaram along with her son. Invariably, the respondent has to attend the criminal courts at Hyderabad in view of pendency of Crime No.725 of 2016 and M.C. No.120 of 2017.

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 to the wife and children. As per the principle enunciated in **T.Gayatri Devi v Dr.Tallepaneni Sreekanth¹, Sumita Singh v. Kumar Sanjay² and Rachna Kanodia v. Anuk Kanodia³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

6. 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 relief sought by the petitioner can be granted.

7. Accordingly, the Transfer CMP is allowed. H.M.O.P. No.43 of 2016 is withdrawn from the file of the Court of Senior Civil Judge, Chodavaram, Visakhapatnam District and transferred to the file of Family Court, City Civil Court, Hyderabad, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 17.4.2017
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96