

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR.C.M.P.NO.342 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.1033 of 2016 on the file of Judge, Family Court, Hyderabad, and transfer the same to the Court of Senior Civil Judge, Allagadda, Kurnool District, on the ground that the petitioner alone cannot undertake journey of more than 300 kilometres.

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

3. The petitioner is wife of the respondent. As seen from the allegations made in the petition, admittedly, the respondent herein filed a private complaint against the petitioner and another before IV Additional Chief Metropolitan Magistrate, Hyderabad, vide C.C.No.194 of 2016 under Sections 497 and 397 IPC. The respondent also filed O.P.No.1033 of 2016 on the file of Judge, Family Court, Hyderabad, under Section 13 of the Hindu Marriage Act.

4. The ground, for transfer of aforesaid O.P., urged before this Court is that the petitioner is unable to undertake journey of 300 kilometres on each and every date of adjournment. It is also stated that there is a Senior Civil Judge's Court in Allagadda and the witnesses to be examined in the aforesaid O.P. are residing near by Allagadda. Therefore, if O.P.No.1033 of 2016 pending on the file of Judge, Family Court, Hyderabad is withdrawn and transferred to

Senior Civil Judge's Court, Allagadda, Kurnool District, no prejudice would be caused to the respondent herein.

5. No doubt, it is difficult for a woman to undertake such a journey frequently. But, that by itself is not a ground to withdraw and transfer the case from one Court to another. In view of latest Judgment of the Hon'ble Apex Court in **Krishna Veni Nagam v. Harish Nagam**¹, where the Hon'ble Apex Court issued certain guidelines to the Judges, which reads thus:

“Spirit behind the orders of this Court in allowing the transfer petitions filed by wives being almost mechanically allowing is that they are not denied justice on account of their inability to participate in proceedings instituted at a different place on account of difficulty either on account of financial or physical hardship. Our Constitutional scheme provides for guaranteeing equal access to justice, power of the State to make special provisions for women and children and duty to uphold the dignity of women. Various steps have been taken in this direction. However, the Apex Court also issued certain directions in para 18 of its judgment, which read thus:

- i) Availability of video conferencing facility.
- ii) Availability of legal aid service.
- 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.”

In view of above guidelines, the inconvenience to undertake a journey may not be a ground to withdraw and transfer the case and at best the witness can be examined by video conference.

¹ AIR 2017 SC 1345

However, in view of difficulty expressed by the petitioner to undertake journey of 300 kilometres, Judge, Family Court, Hyderabad, is directed not to insist the petitioner to appear on every date of adjournment, except on the dates where her presence is required, more particularly when the petitioner is required to be cross-examined by the counsel for the respondent (counsel for the petitioner in O.P.). This direction would meet the ends of justice to serve the purpose.

6. Hence, I find that the ground urged by the petitioner is not tenable to withdraw O.P.No.1033 of 2016 on the file of Judge, Family Court, Hyderabad. However, following the guidelines issued by the Hon'ble Apex Court in **Krishna Veni's case** (supra), the respondent is directed to deposit costs of travel, lodging and boarding expenses and on such deposit, the petitioner shall appear before the Court on the date when her presence is required for cross-examination or for any other purpose.

7. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of. Miscellaneous petitions, if any, pending in this petition shall stand closed. There shall be no order as to costs.

M. SATYANARAYANA MURTHY, J

JUNE 05, 2017
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TR.C.M.P.NO.342 OF 2017

Date: 05.06.2017

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