

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.196 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw O.P.No.1796 of 2015 on the file of the Court of XVI Additional District Judge-cum-Family Court, Ranga Reddy District, at Malkajgiri, and transfer the same to the file of Family Court, Mahabubnagar, to be tried along with M.C.No.5 of 2016.

2. Heard both the counsel and perused the affidavit filed in support of the petition and the counter filed by the respondent.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 20.08.2014 at Swagath Grand Hotel, ECIL, Hyderabad, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined with the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with one daughter on 09.07.2015. Unfortunately, bad weather prevailed in the family life of the petitioner and respondent, therefore, the petitioner has been residing at her parents house in Mahaboobnagar.

4. While things stood thus, the respondent filed O.P.No.1796 of 2015 on the file of the XVI Additional District Judge cum Family Court, Ranga Reddy District, against the petitioner under Section 13(1)(ia) of Hindu Marriage Act, for dissolution of marriage between them. A perusal of the record reveals that basing on the complaint lodged by the petitioner, the Station House Officer, Women Police Station, Mahaboobnagar registered a case in Crime No.4 of 2016 against the respondent under Section 498-A IPC and Sections 3 and 4 of the Dowry

Prohibition Act. The petitioner also filed M.C.No.5 of 2016 on the file of the Family Court, Mahaboobnagar, against the respondent claiming maintenance under Section 125 Cr.P.C. The respondent is facing trial in D.V.C.No.3 of 2016, which is pending on the file of the Judicial Magistrate of First Class, Mahaboobnagar. As per the recitals of O.P., the petitioner is resident of Mahaboobnagar. It is the case of the petitioner that she is not in a position to travel from Mahaboobnagar to Hyderabad along with her daughter in order to prosecute O.P.No.1796 of 2015. Invariably, the respondent has to attend the Family Court, Mahaboobnagar, in view of pendency of M.C.No.5 of 2016 and Judicial First Class Magistrate Court at Mahaboobnagar, in view of pendency of D.V.C.No.3 of 2016.

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.

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.

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 considered view that the petitioner deserves the relief sought for. The learned counsel for the respondent submitted that the respondent is working in Nuclear Complex in ECIL, Hyderabad, therefore, his presence may be dispensed with before the Family Court, Mahaboobnagar. As rightly

¹ AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

² 2001(7) Supreme 96

³ AIR 2002 SC 396

pointed out by the learned counsel for the respondent, it may not be possible for the respondent to get leaves frequently. Even if the presence of the respondent is dispensed with, no prejudice would be caused to the petitioner.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.1796 of 2015 is withdrawn from the file of the Family Court, Panga Reddy District, at Malkajgiri, and transferred to the file of the Family Court, Mahaboobnagar, for disposal in accordance with law. The presence of the respondent before the Judge, Family Court, Mahaboobnagar, in connection with O.P.No.1796 of 2015 is dispensed with on each and every date of adjournment. However, he shall appear before the trial Court as and when his presence is so required. As a sequel, miscellaneous petitions, pending if any shall stand closed.

24th April 2017
Rns

T.SUNIL CHOWDARY, J

