

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.39 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw F.C.O.P.No.294 of 2016 on the file of the Judge, Family Court-cum-III Additional District Judge, Warangal and transfer the same to the file of Senior Civil Judge, Suryapet, Nalgonda District, for disposal in accordance with law.

2. Heard both the counsel and perused the material available on record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 02.05.2015 at Suryapet, 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. Unfortunately, bad weather prevailed in the family life of the petitioner and respondent, therefore, the petitioner has been residing at her parents house in Suryapet along with her eight months son.

4. A perusal of the record reveals that the petitioner herein filed M.C.No.36 of 2016 on the file of the Judicial Magistrate of First Class, at Suryapet, against the respondent seeking maintenance under Section 125 Cr.P.C. The petitioner herein also filed D.V.C.No.28 of 2016 on the file of the Judicial Magistrate of First Class, at Suryapet.

5. While things stood thus, the respondent herein filed F.C.O.P.No.294 of 2016 on the file of the Family Court, Warangal, against the petitioner under Section 13(i)(i-a)(i-b) of Hindu Marriage Act for dissolution of marriage between them. It is the case of the petitioner that she is unable to attend the Family Court at Warangal, along with her son aged about eight months. Invariably, the respondent has to attend the criminal courts at Suryapet in view of pendency of M.C.No.36 of 2016 and D.V.C.No.28 of 2016.

6. 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.

7. As per the principle enunciated in V.Sailaja v V.Koteswara Rao¹, Rachna Kanodia v. Anuk Kanodia², and Sumita Singh v. Kumar Sanjay³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

8. 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.

9. Learned counsel for the respondent submitted that it may not be possible for the respondent to attend the Court of Senior Civil

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

Judge, Suryapet, on each and every date of adjournment in view of his nature of employment. He further submitted that the presence of the respondent may be dispensed with before the trial Court.

10. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.294 of 2016 is withdrawn from the file of the Judge, Family Court, Warangal, and transferred to the file of the Senior Civil Judge, Suryapet, Nalgonda District, for disposal in accordance with law. The presence of the respondent is dispensed with in connection with F.C.O.P.No.294 of 2016 before the Senior Civil Judge, Suryapet, Nalgonda District. However, the respondent 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.

4th April 2017
Pns

T.SUNIL CHOWDARY, J

