

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.225 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw O.P.No.166 of 2016 on the file of the Court of Senior Civil Judge at Jagtial, and transfer the same to the file of Family Court, Warangal, for disposal in accordance with law.

2. In spite of service of notice, the respondent did not choose to appear and contest the petition. Hence, this Court is inclined to dispose of the petition on merits. Heard the learned counsel for the petitioner 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 15.03.2014 at Eppallapalli of Mogullapalli Mandal, Jayashankar District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For one reason or other, disputes arose between the petitioner and respondent, therefore, the petitioner has been residing at her parents house.

4. While things stood thus, the respondent filed O.P.No.166 of 2016 on the file of the Senior Civil Judge, at Jagtial, against the petitioner under Section 13(1)(ia)(ib) 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, Mogullapally, registered a case in Crime

No.22 of 2017 against the respondent and his family members for the offence punishable under Section 498-A IPC. The respondent is also facing trial in D.V.C.No.5 of 2017 on the file of Additional Judicial First Class Magistrate, Parkal. The petitioner also filed M.C.No.4 of 2017 on the file of the Additional Judicial Magistrate of First Class, Parkal, against the respondent claiming maintenance under Section 125 Cr.P.C. The distance between Jagtial and petitioner's place is nearly 150 kilometers. It is the case of the petitioner that she is not in a position to travel from her native place to Jagtial in order to prosecute O.P.No.166 of 2016. Invariably, the respondent has to attend the Court of Additional Judicial First Class Magistrate, Parkal in view of pendency of M.C.No.4 of 2017 and D.V.C.No.5 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, 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.

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 considered view that the petitioner deserves the relief sought for.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.166 of 2016 is withdrawn from the file of the Court of Senior Civil Judge, at Jagtial, and transferred to the file of the Judge, Family Court, Warangal, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

26th April 2017
Rns

T.SUNIL CHOWDARY, J

