

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
TRANSFER CIVIL MISCELLANEOUS PETITION NO.340 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.37 of 2017 on the file of Senior Civil Judge, Chirala and transfer the same to any Court of Ranga Reddy District, on the following grounds:

- (i) that the petitioner filed D.V.C.No.20 of 2017 and the same is pending on the file of the XI Metropolitan Magistrate, Cyberabad, Ranga Reddy District and she also lodged complaint, registered as crime No.238 of 2016 for the offence punishable under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961 pending before Women Police Station, Cyberabad, Ranga Reddy District and
- (ii) she being a woman, it is difficult for her to undertake journey from Ranga Reddy to Chirala, which is more than 380 kilometres, to appear before the Court on all dates of adjournments

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

3. The first and foremost ground for withdrawal and transfer of O.P. is that D.V.C.No.20 of 2017 is pending on the file of the XI Metropolitan Magistrate, Cyberabad, Ranga Reddy District and also a case in crime No.238 of 2016 under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961 is pending before Women Police Station, Cyberabad, Ranga Reddy District, but they cannot be tried along with the said O.P., which is pending on the file of Senior Civil Judge, Chirala, since the issues involved in

those two matters are entirely different from the dispute in marriage O.P. Therefore, pendency of two different cases in Court and police station, Ranga Reddy District is not a ground to withdraw and transfer the said O.P. to any Court at Ranga Reddy District.

4. The second ground is that the petitioner is unable to undertake journey covering the distance of 380 kilometres on every date of adjournment. No doubt, it is difficult for a woman to undertake journey on every date of adjournment. But that by itself is not a ground to withdraw and transfer the case, since the *forum non conveniens* based on the principle laid down in **Modi Entertainment Network and another v. W.S.G. Cricket Pte.Ltd**¹ is not a ground in view of latest Judgment of the Hon'ble Apex Court in **Krishna Veni Nagam v. Harish Nagam**², 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:

¹ (2003) 4 SCC 341

² AIR 2017 SC 1345

- 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 the above guidelines, the inconvenience for the petitioner to undertake journey may not be a ground to withdraw and transfer O.P.No.37 of 2017 from one Court to another and at best, the witness can be examined by video conference. However, in view of difficulty expressed by the petitioner to undertake journey of 380 kilometres, the Senior Civil Judge, Chirala, is directed not to insist the petitioner to appear on every date of adjournment, except on the dates when her presence is required, more particularly when the petitioner is required to be cross-examined by the counsel for the respondent as long as the petitioner is represented by counsel, in case counsel failed to represent and prosecute the case, the above direction would not preclude the Court to pass appropriate order against the petitioner, in accordance with law. This direction would meet the ends of justice and serve the purpose.

5. In view of the law declared by the Apex Court in **Krishna Veni Nagam's** case (referred to supra), the Senior Civil Judge, Chirala, Hyderabad is directed to follow the guidelines issued in the said case and permit the counsel for the respondent to cross-examine the petitioner and witness on her behalf by video conference and in case, video conference is not available, the Senior Civil Judge, Chirala, shall direct the respondent to deposit costs of travelling, boarding, lodging and other incidental expenses

to the credit of O.P. and on such deposit, the petitioner be directed to appear before the Court on the date when her presence is required for cross-examination or for any other purpose.

6. 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 14, 2017

ssp

