

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR.C.M.P.NO.395 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw H.M.O.P.No.16 of 2017 on the file of Senior Civil Judge, Rajam, Srikakulam and transfer the same to the Senior Civil Judge, Bhimavaram, West Godavari District

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

3. The petitioner is wife of the respondent. In the affidavit filed in support of the petition, it is stated that the petitioner filed C.C.No.66 of 2016 on the file of I Additional Junior Civil Judge-cum-Judicial Magistrate of First Class, Bhimavaram, for the offence punishable under Section 498-A read with 34 IPC against the respondent. She also filed M.C.No.2 of 2016 before the Court of I Additional Junior Civil Judge, Bhimavaram, and the same was allowed by granting Rs.5,000/- per month to the petitioner and Rs.2,500/- per month each to the children. Questioning the said order, the respondent herein filed Crl.R.P.No.18 of 2017 before the Principal Sessions Judge, West Godavari at Eluru and the same is pending, for which the respondent is attending the Court.

4. Learned counsel for the petitioner submits that the petitioner is facing life threat in the hands of the respondent and on one occasion when she appeared before the Court at Rajam, the respondent threatened her not to attend the Court. But, this allegation is not substantiated by any material. Therefore, in the

absence of any material, it is difficult to accept the life threat as no compliant was lodged against the respondent by the petitioner immediately to the concerned Station House Officer or complaint to the Presiding Officer of the Court after adjourning the case, in such a case, the alleged threat cannot be accepted and it is not a ground to transfer the case.

4. The grounds urged by the petitioner are no more available for withdrawal and transfer of the cases from one Court to another, in view of the judgment in **Krishna Veni Nagam v. Harish Nagam**¹, wherein the Apex Court at para No.18 held as follows:

“18. We, therefore, direct that in matrimonial or custody matters or in proceedings between parties to a marriage or arising out of disputes between parties to a marriage, wherever the Defendants/Respondents are located outside the jurisdiction of the court, the court where proceedings are instituted, may examine whether it is in the interest of justice to incorporate any safeguards for ensuring that summoning of Defendants/Respondent does not result in denial of justice. Order incorporating such safeguards may be sent along with the summons. The safeguards can be:

- 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.”

As per the guidelines laid down by the Apex Court, it implies that petitioner can be examined by video conferencing while staying at Bhimavaram. In case, no video conferencing facility is available,

¹ AIR 2017 SC 1345

the husband shall be insisted to deposit costs of travelling, lodging and boarding in terms of Order XXV CPC while directing the husband to furnish e-mail address/phone number, if any, at which the litigant from outstation. On such deposit, the petitioner shall appear before the trial Court for the purpose of cross-examination or for any other purpose as directed by the Court.

5. In view of the above, the Senior Civil Judge, Rajam, is requested not to insist for presence of the petitioner on every date of adjournment and on the date when her presence is required by the respondent's counsel or for any other purpose as long as the counsel representing her prosecuting the case before the Court. However, this direction shall not preclude the trial Court from passing any order, in accordance with law, in the event the counsel failed to represent or prosecute the proceedings on her behalf. The Senior Civil Judge, Rajam, is bound to adhere to the guidelines issued by the Apex Court in the case referred supra.

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.

JUNE 21, 2017
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M. SATYANARAYANA MURTHY, J

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Date: 21.06.2017

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