

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.593 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. to withdraw F.C.O.P.No.34 of 2014 from the file of the Family Court, Ongole and transfer the same to the file of the XVI Additional District and Sessions Judge-cum-Additional Family Court, Ranga Reddy District at Malkajgiri.

2. Heard the learned counsel for both the parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 13.03.2011 at SVS Kalyana Mandapam, Ongole, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined with the respondent to lead marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with a son on 17.02.2012. Due to one reason or other, bad weather prevailed in the family life of the petitioner and the respondent. The respondent herein filed F.C.O.P.No.34 of 2014 on the file of the Family Court, Ongole, against the petitioner under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights. As per the recitals of F.C.O.P.No.34 of 2014, the petitioner has been residing in Secunderabad. The petitioner filed D.V.C.No.13 of 2014 on the file of the XXI Metropolitan Magistrate at Medchal, Ranga Reddy District, against the respondent herein under Section 12 of the Protection of Women from Domestic Violence Act, 2005. The petitioner may face some difficulty to attend the Family Court at Ongole along with her son. Invariably, the respondent has to

attend the Court of XXI Metropolitan Magistrate at Medchal in order to prosecute D.V.C.No.13 of 2014. As per the recitals of the petition, the petitioner has been residing at her brother's house in Secunderabad. A perusal of the record *prima facie* reveals that the petitioner has no source of income. 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, to the wife and children.

4. As per the principle enunciated in **T.Gayatri Devi v. Dr. Tallepaneni Sreekanth¹, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

5. 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 relief sought by the petitioner deserves to be allowed.

6. Learned counsel for the respondent submitted that the respondent is an employee; therefore, he may face some difficulty to attend the Additional Family Court at Malkajgiri on each and every date of adjournment. Hence, his presence may be dispensed with before the said Court.

7. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.34 of 2014 is withdrawn from the file of the Family Court, Ongole and transferred to the file of the

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

XVI Additional District and Sessions Judge-cum-Additional Family Court, Ranga Reddy District at Malkajgiri for disposal in accordance with law. The presence of the respondent (husband) in respect of F.C.O.P.No.34 of 2014 is hereby dispensed with on each and every date of adjournment before the Additional Family Court, Ranga Reddy District at Malkajgiri. However, he shall appear before the said Court as and when his presence is so required. There shall be no order as to costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 13.02.2017
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