

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER C.M.P. NO.412 OF 2017

ORDER:

This Transfer C.M.P. is filed under Section 24 CPC to withdraw HMOP No.91 of 2016 on the file of the Senior Civil Judge, Huzurnagar, Nalgonda District and transfer the same to the Judge, Family Court, Vijayawada, Krishna District.

2. The only ground urged in the petition is that she is staying at Vijayawada on account of harassment meted out by her in the hands of the respondent both physically and mentally and that she is unable to undertake journey covering more than 200 K.Ms. to attend the Court at Huzurnagar on every date of adjournment and she has no means to maintain herself and she also filed M.C.No.102 of 2017 under Section 125 Cr.P.C. for grant of maintenance, which is pending before the Family Court at Vijayawada and she also lodged a complaint against the respondent for the offence punishable under Section 498-A IPC, which is registered as a case in Cr.No.525 of 2016 of Satyanarayanapuram P.S., Vijayawada.

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

4. The first and foremost ground raised is pendency of M.C. No.102 of 2017 before the Judge, Family Court, Vijayawada. M.C. was filed under Section 125 Cr.P.C. for grant of maintenance and the consideration for grant of maintenance under Section 125 Cr.P.C. is different from the consideration for grant of decree for Restitution of Conjugal Rights under Section 9 of the Hindu Marriage Act, 1955. Therefore, pendency of M.C. is not a ground to withdraw and transfer the matter.

5. The next ground is that crime is pending with Satyanarayanapuram P.S. and it appears from the record that investigation is not completed and it is not known whether police filed final report under Section 173 Cr.P.C. or not. At this stage, it is pre-mature to contend that in view of pendency of crime with Satyanarayanapuram P.S., the petition has to be withdrawn. Therefore, on that ground the matter cannot be withdrawn and transferred.

6. The next ground is she is unable to undertake journey covering more than 200 K.Ms. and unable to meet the expenses of traveling, boarding and lodging to appear before the Court at Huzurnagar in connection with HMOP. But in view of the judgment of the Apex Court in **Krishna Veni Nagam v. Harish Nagam**¹, the respondent can be directed to deposit expenses for traveling, boarding and lodging and she can also be examined by video conference and if not available, she is required to appear before the Court for recording her cross-examination or for any other specific purpose subject to meeting the expenses for her traveling, boarding and lodging by the respondent. Therefore, it is not a ground to withdraw and transfer the matter.

7. The petitioner being a woman certainly would face difficulty in attending the Court on every date of adjournment. Therefore, the Senior Civil Judge, Huzurnagar, Nalgonda District, is requested not to insist the petitioner to appear on every date of adjournment, except on the dates when her presence is required or recording her cross-examination. This direction would not preclude the Court to pass any order against the petitioner in accordance with law for her failure to get the proceedings prosecuted through her counsel. If no facility of video conference is available, when the petitioner's presence is required, the respondent may be directed to deposit

¹ AIR 2017 SC 1345

travelling, lodging, boarding and other incidental expenses. On such deposit, the petitioner shall appear before the Court on the date when her presence is required for cross-examination or for any other purpose. This direction would meet the ends of justice to serve the purpose.

8. With the above direction, this Tr.C.M.P. is disposed of. No order as to costs. Miscellaneous petitions, if any pending, in this petition shall stand closed.

M.SATYANARAYANA MURTHY, J

DATED: 30-06-2017.
Hsd

