

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.32 of 2017

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.2473 of 2016 from the file of the Family Court, Kukatpally at Miyapur, Ranga Reddy District, and transfer the same to the file of the Court of the Principal Senior Civil Judge, Machilipatnam.

2. Heard the learned counsel for both parties 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 14.02.2013 at Dwaraka Thirumala Venkateswara Swamy Vari Sannidhi of West Godavari District, as per Hindu Rites and Caste Custom. 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 in Machilipatnam. While things stood thus, the respondent filed F.C.O.P.No.2473 of 2016 on the file of the Family Court, Kukatpally at Miyapur, Ranga Reddy District, under Section 13(1)(ia) of the Hindu Marriage Act read with Sections 7 and 8 of the Family Courts Act, against the petitioner. Basing on the complaint lodged by the petitioner, the Station House Officer, Women Police Station, Machilipatnam, registered a case in Crime No.19 of 2016 against the respondent for the offences punishable under Section 498-A of I.P.C. and Sections 3 and 4 of the Dowry

Prohibition Act, 1961. A perusal of the record reveals that the petitioner filed M.C.No.42 of 2016 on the file of the Court of the II Additional Judicial First Class Magistrate, Machilipatnam, against the respondent claiming maintenance. This itself indicates the financial status of the petitioner. The distance between Miyapur and Machilipatnam is around 400 KM.

4. The predominant contention of the learned counsel for the respondent is that there is a life threat to the respondent if he attends the Courts at Machilipatnam.

5. It is not uncommon to make allegations against each other, more particularly, in family matters in order to gain the sympathy of the Court. If really there is a threat to the respondent, what prevented him to lodge a complaint before the concerned Police Station? Except the averments made in the counter, no material much less cogent and valid material is placed to substantiate the stand of the respondent. Invariably, the respondent has to attend the Court of II Additional Judicial First Class Magistrate, Machilipatnam, in view of pendency of M.C.No.42 of 2016. It may not be possible for the petitioner to travel from Machilipatnam to Hyderabad without the assistance of one of the male members of the family.

6. 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. 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.

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 relief sought by the petitioner deserves to be allowed.

8. Learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Court of the Principal Senior Civil Judge, Machilipatnam on each and every date of adjournment.

9. Even if the presence of the respondent is dispensed with, no prejudice will be caused to the petitioner.

10. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.2473 of 2016 is withdrawn from the file of the Family Court, Kukatpally at Miyapur, Ranga Reddy District, and transferred to the file of the Court of the Principal Senior Civil Judge, Machilipatnam, for disposal in accordance with law. The presence of the respondent (husband) in respect of F.C.O.P.No.2473 of 2016 is hereby dispensed with on each and every date of adjournment before the Court of the Principal Senior Civil Judge, Machilipatnam. However, he shall appear before the said Court as and when his presence is so required. There shall be no order as to costs.

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

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

T.SUNIL CHOWDARY, J

Date: 18.04.2017
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