

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.5025 of 2017

ORDER:

This civil revision petition under Article 227 of the Constitution arises out of the order dated 30.08.2017 passed by the learned XVI Additional District and Sessions Judge-cum-III Additional Family Court Judge, Ranga Reddy District at Malkajgiri, in I.A.No.592 of 2017 in O.P.No.426 of 2009. The said I.A. was filed under Order 18 Rule 17 CPC to recall P.W.1 for further cross-examination.

O.P.No.426 of 2009 was filed by the husband, the respondent herein, for dissolution of the marriage on the grounds of cruelty and desertion. He deposed as P.W.1 and was cross-examined by the wife, the petitioner herein, on 11.09.2012, 23.11.2012, 03.12.2013, 08.12.2016 and 20.12.2016. Seeking a further opportunity to cross-examine him, the wife filed the subject I.A. In the affidavit filed in support thereof, she said that she was inconvenienced in cross-examining P.W.1 properly and from all available angles in the previous Court i.e. the Family Court, Ranga Reddy District at L.B.Nagar, and that as the case now stood transferred to the present Court, a further opportunity should be given to her to do so.

Perusal of the record reflects that the petitioner/wife filed Transfer C.M.P.Nos.367 and 374 of 2017 before this Court and, by final order dated 27.06.2017, while opining that no material was produced in support of the allegation against the Judicial Officer warranting exercise of power under Section 24 CPC and withdrawal and transfer of the matters to another Court, however, keeping in mind the principle that justice must not only be done but must also be seen to be done, this Court directed withdrawal and transfer of the petitions, O.P.Nos.426 and 427 of 2009, to the file of the present Court. Further, this Court directed the learned Judge, Family Court, Malakjgiri, to dispose of the petitions in accordance with law after giving an opportunity to both parties as expeditiously as possible and preferably, within a period of two months from the date of receipt of a copy of that order. All these facts were taken into consideration by the Court below while considering the plea of the petitioner/wife and by the order under revision, the Court below dismissed the I.A.

Going by the ground urged by the petitioner/wife in the affidavit filed in support of the I.A., she now claims that she was denied an

opportunity to cross-examine her husband properly. However, if that were the case, she ought to have brought it to the notice of this Court in the Transfer CMPs and sought leave to cross-examine her husband afresh before the Court below after transfer of the OP. She however did not make any such endeavour but, on the other hand, invited a direction from this Court to the Court below to dispose of the OPs expeditiously and preferably within two months.

Given the fact that the petitioner/wife cross-examined the husband on various dates between the years 2012 and 2016, this Court finds it difficult to accept her bald plea that she was denied an opportunity of properly cross-examining him earlier. Ample opportunity seems to have been given in this regard, going by the dates of such cross-examination.

Be it viewed from any angle, this Court finds no merit in the plea of the petitioner/wife to allow her another opportunity to cross-examine her husband. The order under revision holding to this effect therefore does not warrant interference on any ground.

The civil revision petition is devoid of merit and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

10th November, 2017
PGS/GJ

JUSTICE SANJAY KUMAR