

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR.C.M.P.NO.357 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.24 of 2017 on the file of Principal Senior Civil Judge, Anakapalli, Visakhapatnam and transfer the same to the Court of Judge, Family Court, Vijayawada, Krishna District, on the ground that the distance between Vijayawada and Anakapalli is more than 400 kilometres and the petitioner, being a woman, is unable to undertake journey covering more than 400 kilometres on every date of adjournment and that she is not having sufficient means to attend the Court at Anakapalli in connection with the aforesaid O.P.

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

3. As seen from the allegations made in the petition, the petitioner lodged a complaint against the respondent before II Town Police Station and the same is registered as a case in Crime No.271 of 2016 under Section 498-A IPC; that she filed D.V.C. against the respondent and his family members; and that she also filed maintenance case before Judge, Family Court, Vijayawada against the respondent seeking maintenance of Rs.3,000/- per month and other consequential reliefs. Whereas, the respondent filed H.M.O.P.No.24 of 2017 on the file of Principal Senior Civil Judge, Anakapalli under Section 9 of the Hindu Marriage Act.

4. Admittedly, the three cases filed by the petitioner are pending within the jurisdiction of Courts at Vijayawada. The first ground urged before this Court is that the petitioner is unable to undertake

journey covering more than 400 kilometres to attend the Court at Anakapalli on every date of adjournment in connection with aforesaid O.P. But, it appears that the petitioner engaged an Advocate to defend her case in H.M.O.P.No.24 of 2017, as such she is not required to attend the Court on every date of adjournment, except on the dates when her presence is required to cross-examine as witness or for any other purpose. In **Krishna Veni Nagam v. Harish Nagam**¹, where the Hon'ble Apex Court issued certain guidelines to the Judges, which reads thus:

“Spirit behind the orders of this Court in allowing the transfer petitions filed by wives being almost mechanically allowing is that they are not denied justice on account of their inability to participate in proceedings instituted at a different place on account of difficulty either on account of financial or physical hardship. Our Constitutional scheme provides for guaranteeing equal access to justice, power of the State to make special provisions for women and children and duty to uphold the dignity of women. Various steps have been taken in this direction. However, the Apex Court also issued certain directions in para 18 of its judgment, which read thus:

- 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.”

In view of above guidelines, the distance and inconvenience to undertake a journey may not be a ground to withdraw and transfer the case from one Court to another and petitioner can be examined by video conference and in the event, no video conference facility is

¹ AIR 2017 SC 1345

available, the respondent can be directed to deposit travelling, lodging and boarding expenses to the petitioner.

5. The second ground urged before this Court is that criminal case, D.V.C. and maintenance case allegedly filed by the petitioner are pending before the Courts at Vijayawada. The petitioner need not travel to the Courts as those matters are pending at Vijayawada where she is residing. At best, it is a headache of the respondent to appear before the Courts at Vijayawada and it is for him to take necessary steps. But, mere pendency of those matters is not a ground to withdraw and transfer the matters.

6. In any view of the matter, it is difficult for the petitioner to undertake journey on every date of adjournment. Therefore, the Principal Senior Civil Judge, Anakapalli, is directed not to insist for appearance of the petitioner on every date of adjournment, except on the dates when her presence is required for cross-examination or for any other purpose subject to deposit of travelling, lodging and boarding expenses by the respondent and further directed to follow the directions issued in **Krishna Veni Nagam's case** (cited supra). This direction would not preclude the trial Court to pass any order against the petitioner, if her counsel failed to represent her or prosecute the case, in accordance with law.

7. 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.

M. SATYANARAYANA MURTHY, J

JUNE 09, 2017
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TR.C.M.P.NO.357 OF 2017

Date: 09.06.2017

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