

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR.C.M.P.NO.331 OF 2017

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw F.C.O.P.No.1104 of 2016 on the file of Judge, Family Court, Civil Court, Hyderabad and transfer the same to the file of Principal Senior Civil Judge, Machilipatnam on the ground that the petitioner cannot undertake journey covering the distance of 300 kilometres along with her four years old child.

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

3. As seen from the allegations made in the petition, admittedly, the petitioner filed a criminal case against the respondent under Section 498-A IPC, which was numbered C.C.No.1 of 2016 on the file of Special Mobile First Class Magistrate, Machilipatnam and the same is pending. As the respondent is not taking care of her and her daughter, she filed a maintenance case under Section 125 Cr.P.C. In connection with those two cases, the respondent is attending the Court at Machilipatnam. But, mere pendency of those two cases is not a ground to transfer F.C.O.P.No.1104 of 2016 from the file of Judge, Family Court, City Civil Court, Hyderabad to the file of Principal Senior Civil Judge, Machilipatnam.

4. The ground urged before this Court is that the petitioner is unable to undertake journey of more than 300 kilometres on each and every date of adjournment. No doubt, it is difficult for a woman to undertake such a journey frequently. But, that by itself is not a ground to withdraw and transfer the case from one Court to another. In view of latest Judgment of the Hon'ble Apex Court 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 inconvenience to undertake a journey may not be a ground to withdraw and transfer F.C.O.P.No.1104 of 2016 on the file of Judge, Family Court, City

¹ AIR 2017 SC 1345

Civil Court, Hyderabad to the file of Principal Senior Civil Judge, Machilipatnam and at best the witness can be examined by video conference. However, in view of difficulty expressed by the petitioner to undertake journey of 300 kilometres, the Judge, Family Court, City Civil Court, Hyderabad, is directed not to insist the petitioner to appear on every date of adjournment, except on the dates where her presence is required, more particularly when the petitioner is required to be cross-examined by the counsel for the respondent (counsel for the petitioner in O.P.). This direction would meet the ends of justice to serve the purpose.

5. The other ground is that it is difficult for the petitioner to undertake journey along with a small child as discussed earlier. But, it is not at all a ground to transfer the case. Even if her presence is required for cross-examination to be conducted by counsel for the respondent, she can travel along with a small child for one day or two days or otherwise she can be examined on video conference. Therefore, I find that the ground urged by the petitioner is not tenable to withdraw F.C.O.P.No.1104 of 2016 pending on the file of Judge, Family Court, City Civil Court, Hyderabad. However, following the guidelines issued by the Hon'ble Apex Court in **Krishna Veni's case** (supra), the respondent is directed to deposit costs of travel, lodging and boarding expenses and 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.

6. 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 05, 2017
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THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



TR.C.M.P.NO.331 OF 2017

Date: 05.06.2017

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