

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.520 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw F.C.M.O.P.No.39 of 2016 pending on the file of the Judge, Family Court – cum – III Additional District Judge, Srikakulam, Srikakulam District, and transfer the same to the court of Principle Senior Civil Judge, Machilipatnam, Krishna District, for disposal in accordance with law.

2. Heard both the counsel.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 26.02.2015 at Sri Venkateswara Swamy Vari Temple, Subalaya, Hiramandalam Town of Srikakulam District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Due to one reason or other, disputes arose between the petitioner and the respondent, therefore, the petitioner has been residing at her parents house in Machilipatnam. A perusal of the record reveals that the respondent herein filed F.C.M.O.P.No.39 of 2016 on the file of the Family Court cum III Additional District Judge, Srikakulam, against the petitioner under Section 9 of the Hindu Marriage Act. The respondent herein is facing trial in C.C.No.177 of 2016 on the file of the II Additional Judicial First Class Magistrate Court, Machilipatnam, for the offences punishable under Sections 498-A,

323 and 506 IPC read with 34 IPC. The petitioner herein filed O.P.No.99 of 2016 on the file of the Principle Senior Civil Judge Court, Machilipatnam under Section 13(1)(1-a) of Hindu Marriage Act for dissolution of marriage between the petitioner and respondent. The relief sought in O.P.No.99 of 2016 is more wider than the relief sought in O.P.No.39 of 2016. Invariably, the respondent has to attend the criminal court as well as the Senior Civil Judge Court, at Machilipatnam in view of pendency of C.C.No.177 of 2016 and O.P.No.99 of 2016. The petitioner may face some difficulty to travel from Machilipatnam to Srikakulam in order to prosecute O.P.No.39 of 2016.

4. 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, the wife and the children. Even if the petition is allowed, the same may not cause any prejudice to the respondent.

5. As per the principle enunciated in V.Sailaja v V.Koteswara Rao¹, Rachna Kanodia v. Anuk Kanodia², and Sumita Singh v. Kumar Sanjay³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, this Court is

¹ AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

² 2001(7) Supreme 96

³ AIR 2002 SC 396

of the view that it is a fit case to consider the request made by the petitioner.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. F.C.M.O.P.No.39 of 2016 is withdrawn from the file of the Judge, Family Court-cum-III Additional District Judge, Srikakulam, Srikakulam District, and transferred to the file of the Principle Senior Civil Judge Court at Machilipatnam, Krishna District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

6th March 2017
Pns



T. SUNIL CHOWDARY, J