

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.102 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., seeking to withdraw H.M.O.P.No.340 of 2016 on the file of the Court of III Additional Senior Civil Judge, Kakinada, and transfer the same to the file of Senior Civil Judge, Narsapur, for disposal in accordance with law.

2. Heard Sri J.Sreenivasa Rao, learned counsel for the petitioner and Sri A.K.Kishore Reddy, learned counsel for the respondent 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 19.01.2014 at Bagara of Jalore District of Rajasthan, as per Hindu rites and caste customs. The marriage of the petitioner and respondent was registered before the Sub-Registrar at Samarlakot on 31.01.2015. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Due to one reason or other, bad weather prevailed in the family life of the petitioner and respondent, therefore, the petitioner has been residing at her parents house in Narsapur. It is not uncommon to make allegations and counter allegations by the parties to the proceedings, more particularly in matrimonial cases in order to gain the sympathy of the Court. This is not the stage to go into the merits of the main case. Even as per the recitals of main O.P., the petitioner is the resident of Narsapur.

4. A perusal of the record reveals that the respondent filed H.M.O.P.No.340 of 2016 on the file of the III Additional Senior Civil Judge, Kakinada, against the petitioner under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights. A perusal of the record reveals that basing on the complaint lodged by the petitioner, the Station House Officer, Narsapur registered a case in Crime No.177 of 2016 for the offence punishable under Section 498-A, 313 read with 34 IPC and 3 and 4 of the Dowry Prohibition Act against the respondent and his parents. It is the case of the petitioner that she is not in a position to travel from Narsapur to Kakinada without the assistance of one of the male members of the family. Invariably, the respondent has to attend the criminal Court at Narsapur.

5. 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.

6. 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.

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 petitioner deserves the relief sought for. At the time of arguments, learned counsel for the respondent submitted

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

² 2001(7) Supreme 96

³ AIR 2002 SC 396

that the respondent is a business man, therefore, his presence may be dispensed with on each and every date of adjournment before the Senior Civil Judge Court, Narsapur. Even if the presence of the respondent is dispensed with, no prejudice will be caused to the petitioner.

8. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.340 of 2016 is withdrawn from the file of the III Additional Senior Civil Judge, Kakinada, and transferred to the court of the Senior Civil Judge, Narsapur, for disposal in accordance with law. The presence of the respondent before the Court of Senior Civil Judge, Narsapur, in connection with H.M.O.P.No.340 of 2016 is dispensed with on each and every date of adjournment. However, he shall appear before the trial Court as and when his presence is so required. As a sequel, miscellaneous petitions, pending if any shall stand closed.

24th April 2017
Rns

T.SUNIL CHOWDARY, J