

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Tr.C.M.P. NO.401 OF 2017

ORDER:

This petition is filed under Section 24 of Civil Procedure Code to withdraw F.C.O.P No.46 of 2017 on the file of Family Court, Karimnagar and transfer the same to the Family Court, Mancherial at Adilabad District, on two grounds.

The first ground is that the petitioner filed private complaint and the same was referred under Section 156(3) Cr.P.C and registered the same as Crime No.67 of 2017 against the respondent for the offences punishable under Section 420 IPC, Section 6 of Dowry Prohibition Act and under Section 156(3) of Cr.P.C., pending the I Additional Judicial Magistrate at Mancherial, Adilabad. Further, the petitioner also filed M.C.No.4 of 2017 before the I Additional Judicial Magistrate at Mancherial, Adilabad, pending for adjudication.

The second ground is that, for the purpose of her appearance before the Court at Karimnagar, the petitioner had to travel a total distance of approximately 105 kms i.e. distance of 20 kms from Mandamarri to Mancherial and 85 kms from Mancherial to Karimnagar along with 2 ½ years child on every date of adjournment.

The first ground is pendency of two matters, which I referred supra. Those matters have to be tried by I Additional Judicial Magistrate at Mancherial, Adilabad and they are governed by the provisions of Cr.P.C, whereas, F.C.O.P No.46 of 2017 is to be tried by Family court and no such Court is available at Mancherial. At

best, the matter has to be tried and decided by a Court of competent jurisdiction i.e. Family Court alone. Therefore, pendency of Crime No.67 of 2017 and M.C.No.4 of 2017 cannot be withdrawn and transferred.

The second ground is that, it is difficult for her to perform journey of 105 kms on every date of adjournment. F.C.O.P No.46 of 2017 is purely civil in nature, but, she has to appear before the Court as per the rules under the Family Courts Act and such appearance can be dispensed with by this Court. At best, the petitioner is required to appear before the court only on the date when her cross-examination is required to be recorded or for any other purpose, whenever the Judge directs her to appear personally. Therefore, appearance of the petitioner before the Court on every date of adjournment is not imperative and therefore, her inability to perform journey covering distance of 105 kms by itself is not a ground to withdraw F.C.O.P No.46 of 2017 on the file of Family Court, Karimnagar and transfer the same to the Family Court, Mancherla at Adilabad District.

Undoubtedly, appearance of the petitioner along with a child of 2 ½ years, before the concerned Court on every date of adjournment would cause some inconvenience. In such case I deem it appropriate to direct the Judge, Family Court, Karimnagar not to insist the appearance of the petitioner on every date of adjournment, as long as she is represented by a counsel and prosecuting the case, except on the dates when her appearance is required for cross-examination or for any specific purpose whenever she is directed to appear before the Court. This order does not preclude the Judge, Family Court, Karimnagar to pass

any order in accordance with law, in the event of the petitioner's counsel failure to represent and prosecute the case/proceedings on her behalf.

Hence, I find no sufficient ground to withdraw F.C.O.P No.46 of 2017 on the file of Family Court, Karimnagar and transfer the same to the Family Court, Mancherial at Adilabad District.

With the above observation, the transfer civil miscellaneous petition is disposed of.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:21.07.2017

SP

