

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.628 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw O.P.No.20 of 2016 from the file of the Court of the Senior Civil Judge at Peddapalli, Karimnagar District, and transfer the same to any Court in Kothagudem, Khammam District.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 30.03.2000 at Paloncha of Khammam District, as per Hindu Rites and Caste Custom. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with two children. For one reason or other, disputes arose between the petitioner and respondent. Therefore, the petitioner has been residing at her parents' house in Paloncha since 2012. The respondent herein filed O.P.No.20 of 2016 on the file of the Court of the Senior Civil Judge at Peddapalli, under Section 13(1)(ia) of the Hindu Marriage Act, 1955, for dissolution of marriage between him and the petitioner. The petitioner herein filed M.C.No.29 of 2014 on the file of the Court of the II Additional Judicial First Class Magistrate at Kothagudem seeking maintenance from the respondent. Basing on the complaint lodged by the petitioner, the Station House Officer, Paloncha Police Station, registered a case in Crime No.267 of 2014 against the respondent and others for the offences punishable

under Section 498-A of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

4. It is not in dispute that the petitioner has been residing at her parents' house in Paloncha along with her children. Filing of M.C.No.29 of 2014 by the petitioner *prima facie* indicates her financial status. It is the case of the petitioner that it may not be possible for her to travel along with her children from Paloncha to Peddapalli in order to prosecute O.P.No.20 of 2016. Invariably, the respondent has to attend the Criminal Courts in Kothagudem in view of pendency of M.C.No.29 of 2014 and criminal case. 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, to the wife and children.

5. As per the principle enunciated in **T.Gayatri Devi v. Dr. Tallepaneni Sreekanth¹, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, 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, I am of the considered view that the relief sought by the petitioner deserves to be allowed.

7. Learned counsel for the respondent submitted that being an employee of Singareni Collieries, the respondent may face some difficulty to attend the Court of Principal Senior Civil Judge at

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

Kothagudem on each and every date of adjournment. He further submitted that the presence of the respondent may be dispensed with on each and every date of adjournment before the said Court.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.20 of 2016 is withdrawn from the file of the Court of the Senior Civil Judge at Peddapalli, Karimnagar District, and transferred to the Court of the Principal Senior Civil Judge at Kothagudem, Khammam District, for disposal in accordance with law. The presence of the respondent (husband) in respect of O.P.No.20 of 2016 is hereby dispensed with on each and every date of adjournment before the Principal Senior Civil Judge at Kothagudem. However, he shall appear before the said Court as and when his presence is so required. There shall be no order as to costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 21.03.2017
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