

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.444 of 2016

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.33 of 2016 from the file of the Family Court, Tirupati, Chittoor District, and transfer the same to the file of the Family Court at Vijayawada.

2. Heard the learned counsel for both parties and perused the material available on record.

3. A perusal of the record reveals that the marriage of the petitioner was officiated with the respondent on 20.05.2011 at Saint Lukes Church in Arogyavaram, near Tirupati, as per Christian 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 twins in the year 2015. For one reason or other, disputes arose between the petitioner and respondent; therefore the petitioner has been residing at her parents' house in Vijayawada. Basing on the complaint lodged by the petitioner, the Station House Officer, Penamaluru Police Station, registered a case in Crime No.689 of 2015 against the respondent and others for the offences punishable under Sections 498-A, 307, 323, 313, 342, 354, and 354(b)(c) read with 34 of I.P.C. The petitioner also filed D.V.C.No.232 of 2016 against the respondent, which is pending in Criminal Courts, Vijayawada. The petitioner filed Divorce O.P.No.996 of 2016 on the file of the Family Court at Vijayawada against the respondent for dissolution of marriage between them.

The respondent filed F.C.O.P.No.33 of 2016 on the file of the Family Court, Tirupati, under Section 32 of the Divorce Act, 1869 read with Section 4 of the Indian Christian Marriage Act, 1872, against the petitioner for restitution of conjugal rights. The respondent also filed G.O.P.No.20 of 2017 on the file of the Family Court at Vijayawada against the petitioner for custody of minor child.

4. The distance between Vijayawada and Tirupati is around 400 K.M. As rightly pointed out by the learned counsel for the petitioner, the petitioner has to face some difficulty to travel from Vijayawada to Tirupati along with her twins in order to prosecute F.C.O.P.No.33 of 2016. Invariably, the respondent has to attend the Criminal Courts and Family Court at Vijayawada, in view of pendency of Crime No.689 of 2015, D.V.C.No.232 of 2016 and O.P.No.996 of 2016. 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

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

considered view that the relief sought by the petitioner deserves to be allowed.

7. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.33 of 2016 is withdrawn from the file of the Family Court, Tirupati, Chittoor District, and transferred to the file of the Family Court at Vijayawada for disposal in accordance with law. There shall be no order as to costs.

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

Date: 10.04.2017
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T.SUNIL CHOWDARY, J