

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.794 OF 2016

ORDER:

This petition is filed under Section 24 of C.P.C seeking to withdraw I.D.O.P.No.280 of 2016 pending on the file of the District Court, Machilipatnam and transfer the same to the Family Court, Guntur.

2. Heard learned counsel for both parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 10.02.2015 as per Christian rites and customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of their lawful wedlock, the petitioner and the respondent were blessed with a male child. For one reason or the other, disputes arose between the petitioner and the respondent, therefore, the petitioner has been residing at her parents house in Phirangipuram. While things stood thus, the respondent filed I.D.O.P.No.280 of 2016 on the file of the District Judge, Machilipatnam, under Section 10 (iii) & (x) of Divorce Act, 1869, against the petitioner for dissolution of marriage between them.

4. Learned counsel for the petitioner submitted that the petitioner is facing much difficulty to attend the Court at Machilipatnam in order to prosecute I.D.O.P.No.280 of 2016.

5. While deciding the petition of this nature, the Court has to consider the inconvenience of the parties to the proceedings, more particularly, the wife and children.

6. As per the principle enunciated in **Sumita Singh Vs. Kumar Sanjay¹, Rachna Kanodia Vs. Anuk Kanodia²**, and **V. Sailaja Vs. V. Koteswara Rao³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife. 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 as sought for.

7. The learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Family Court, Guntur, on each and every adjournment. Even if the presence of the respondent is dispensed with, no prejudice would be caused to the petitioner.

8. In the result, the petition is allowed. I.D.O.P.No.280 of 2016 pending on the file of the District Court, Machilipatnam, is withdrawn from the file of the said court and is transferred to the Family Court, Guntur, for disposal in accordance with law. The presence of the respondent before the Family Court, Guntur, in connection with I.D.O.P. No.280 of 2016 is hereby dispensed with on each and every date of adjournment. However, the respondent shall appear before the Family Court, Guntur, as and when his presence is so required. As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Dated: 25-09-2018
Hsd

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178