

**HON'BLE SRI JUSTICE T. SUNIL CHOWDARY**

**TRANSFER C.M.P.No.672 of 2016**

**ORDER:**

This petition is filed under Section 24 C.P.C., to withdraw O.P.No.32 of 2016 from the file of the Family Court, at Mahaboobnagar, and transfer the same to III Additional Family Court-cum-Additional District Court, at Malkajgiri.

2. Heard the learned counsel appearing for both parties and perused the record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 13.02.2011 at ECOA Building, E.C.I.L., Ranga Reddy District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with one son on 13.09.2012. For one reason or the other, disputes arose between the petitioner and the respondent, therefore, the petitioner has been residing at her parents house along with her son at Hyderabad. The petitioner filed D.V.C.No.27 of 2015 against the respondent on the file of the XX Metropolitan Magistrate Court, Cyberabad. The respondent is facing trial in C.C.No.798 of 2015 on the file of the XX Metropolitan Magistrate Court, Hyderabad. The petitioner filed M.C.No.41 of 201 on the file of the III Additional Family Court, at Malkajgiri, against the respondent under Section 12 Cr.P.C. seeking maintenance. While things stood thus, the respondent filed

O.P.No.32 of 2016 on the file of the Family Court, at Mahabubnagar, against the petitioner under Section 13(1)(1a) of Hindu Marriage Act, for dissolution of marriage. It is the case of the petitioner that she is facing much difficulty to travel from Hyderabad to Mahaboobnagar, in order to prosecute O.P.No.32 of 2016 along with her son, who is aged about six years. Invariably, the respondent has to attend the XX Metropolitan Magistrate Court, Cyberabad and III Additional Family Court, at Malkajgiri, in view of pendency of C.C.No.798 of 2015 and M.C.No.41 of 2015 respectively. 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.

4. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao<sup>1</sup>, Rachna Kanodia v. Anuk Kanodia<sup>2</sup>, and Sumita Singh v. Kumar Sanjay<sup>3</sup>**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, this Court is of the considered view that the petitioner deserves the relief sought for.

6. Learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the III

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<sup>1</sup> AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

<sup>2</sup> 2001(7) Supreme 96

<sup>3</sup> AIR 2002 SC 396

Additional Family Court, Malkajgiri, Ranga Reddy District, on each and every date of adjournment. Even if the presence of the respondent is dispensed with, no prejudice would be caused to the petitioner.

7. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. O.P.No.32 of 2016 is withdrawn from the file of the Family Court, at Mahabubnagar, and transferred to the file of III Additional Family Court, at Malkajgiri, for disposal in accordance with law.

8. The presence of the respondent before the III Additional Family Court, at Malkajgiri, in connection with O.P.No.32 of 2016 is dispensed with on each and every date of adjournment. However, the respondent shall appear before the III Additional Family Court, at Malkajgiri, as and when his presence is so required.

9. As a sequel, miscellaneous petitions, pending if any shall stand closed.

**T.SUNIL CHOWDARY, J**

**Dt:08.10.2018**

Rns