

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.604 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw M.O.P.No.53 of 2016 from the file of the Principal Senior Civil Judge Court, Kothagudem, Khammam District, and transfer the same to the Court of Principal Senior Civil Judge, Kovvur, West Godavari District.

2. In spite of service of notice, the respondent did not choose to appear and oppose the petition. Hence, this Court is inclined to pass orders on merits. Heard the learned counsel for the petitioner and perused the record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 17.04.2003 at Gopalapuram of West Godavari 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 daughter and one son. 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 children. Basing on the complaint lodged by the petitioner, the Station House Officer, Kothagudem, registered a case in Crime No.173 of 2011 against the respondent under Section 498-A IPC. Due to intervention of elders, the matter was settled before Lok Adalat on 15.03.2014. The petitioner also filed M.C.No.21

of 2016 on the file of the Court of II Additional Judicial Magistrate of First Class, Kovvur, against the respondent seeking maintenance under Section 125 Cr.P.C. While things stood thus, the respondent filed M.O.P.No.53 of 2016 on the file of the Court of Principal Senior Civil Judge, Kothagudem, Khammam District, under Section 13(1)(ia)(ib) of the Hindu Marriage Act, against the petitioner for dissolution of marriage between them. It is the case of the petitioner that she is not in a position to travel from Kovvur to Kothagudem, in order to prosecute M.O.P.No.53 of 2016. Invariably, the respondent has to attend the Court of II Additional Judicial Magistrate of First Class, Kovvur, in view of pendency of M.C.No.21 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, the wife.

4. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao**¹, **Rachna Kanodia v. Anuk Kanodia**², and **Sumita Singh v. Kumar Sanjay**³, 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.

¹ AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

² 2001(7) Supreme 96

³ AIR 2002 SC 396

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. M.O.P.No.53 of 2016 is withdrawn from the file of the Court of Principal Senior Civil Judge, Kothagudem, Khammam District, and transferred to the file of Principal Senior Civil Judge, Kovvur, West Godavari District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Dt:04.10.2018

Rns

