

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER C.M.P.No. 83 OF 2018

ORDER:

This transfer civil miscellaneous petition under Section 24 of the Code of Civil Procedure (for short, 'C.P.C.') is filed to withdraw OP.No.725 of 2017, pending on the file of the Judge, Family Court, Secunderabad and transfer the same to the Judge, Family Court, Warangal on three grounds.

(1) The petitioner lodged report with the police for the offence punishable under Section 498-A IPC, which was investigated and filed charge sheet and the same was registered as C.C.No.165 of 2017, pending on the file of I Additional Judicial First Class Magistrate, Warangal and that the respondent/husband was attending the Court in connection with C.C.No.165 of 2017.

(2) The petitioner has to look after the female child aged two years and while taking care of her child, it is difficult for her to undertake journey covering distance of 150 kms from Warangal to Secunderabad and that she has no means to maintain herself.

The first and foremost contention raised by learned counsel for the petitioner is that C.C. is pending on the file of I Additional Judicial First Class Magistrate, Warangal and the respondent is attending to the said Court in connection with above C.C. If OP is withdrawn and transferred to the Court at Warangal, it would not cause inconvenience to the respondent. But the same was not a

ground for the reason that after receiving notice in OP, complaint was lodged with the police and the same was registered for the offence punishable under Section 498-A IPC. C.C. will be tried by the Junior Civil Judge and O.P. has to be tried by an officer in the cadre of District Judge, who is presiding as Judge, Family Court. Therefore, the question of clubbing these matters does not arise. Hence, pendency of C.C.No.165 of 2017 on the file of Judicial Magistrate of First Class, O.P. pending before the Judge, Family Court cannot be withdrawn.

The second ground is that she has to look after the female child aged two years and she is not in a position to undertake journey covering distance of 150 kms on every date of adjournment. As per the rules framed under the Family Courts Act, the petitioner is required to appear before the Court on every date of adjournment, if a direction is given to the Judge, Family Court not to insist her appearance on every date of adjournment as long as her counsel is representing, except for reconciliation and for recording her cross examination would serve the purpose of the petitioner. The ground of inability to undertake journey covering distance of 150 kms at the age of 29 years is not available, but the respondent shall pay traveling and other incidental expenses whenever she attends the Court in connection with O.P.

With the above direction, the transfer C.M.P. is disposed of. However, the Judge, Family Court, Secunderabad is directed not to

insist the appearance of the petitioner on every date of adjournment except on the dates when her personal appearance is required, as long as she is being represented by any counsel. This order will not preclude the Court below from passing any order in accordance with law, in the event, counsel for the petitioner failed to represent the matter before the Court. When the petitioner is required to appear before the Court, the respondent be directed to pay traveling and other incidental expenses not only to the petitioner, but also to the person who accompany her to attend the Court in connection with OP and also consider the request, if any, made, by filing application for appointment of advocate commissioner to record her cross examination, in accordance with law.

With the above direction, the Tr.C.M.P. is disposed of. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand dismissed in consequence.

M.SATYANARAYANA MURTHY, J.

Date:19.02.2018
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