

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Criminal Petition No.70 of 2018

ORDER:

This Transfer Criminal Petition, under Section 407 of the Code of Criminal Procedure, 1973, is filed by the petitioner to withdraw M.C.No.48 of 2017 from the file of Additional Judicial Magistrate of First Class, Palakol, West Godavari District, and transfer the same either to the to the Family Court, Vijayawada, or to any other Family Court in West Godavari District, except at Palakol, for trial and disposal in accordance with law.

2. Heard the learned counsel for the petitioner, learned Assistant Public Prosecutor representing the 1st respondent-State and perused the record.

3. The learned counsel for the petitioner would submit that the petitioner has a life threat. The petitioner filed O.P.No.136 of 2018 before the Family Court, Vijayawada, for divorce and ultimately prayed to allow the application.

4. There is no material to substantiate that there is life threat to the petitioner. Further, pendency of O.P. filed by the petitioner before the Family Court, Vijayawada, cannot be a ground to withdraw and transfer the Maintenance Case filed by the 1st respondent/wife at the Court at Palakol, West Godavari District. The requirements in the O.P. filed by the petitioner for divorce and the Maintenance Case filed by the 1st respondent/wife are quite different. As per the records, the 1st respondent/wife resides at Palakol. The Court at Palakol, West Godavari District has jurisdiction to entertain the Maintenance Case.

It is the convenience of the 1st respondent/wife. There are no circumstances to consider the prayer of the petitioner. The Criminal Petition is devoid of merit and is liable to be dismissed.

5. At this stage of the dictation of the order, the learned counsel for the petitioner submits that personal appearance of the petitioner before the Court at Palakol, West Godavari District, on each and every date of adjournment, may be dispensed with. The petitioner is at liberty to file an application for dispensation of his personal attendance before the Court at Palakol, West Godavari District, and in the event of the petitioner filing such application, the Court at Palakol, West Godavari District, shall deal with the same on merits and in accordance with law.

6. With the above observation, the Transfer Criminal petition is dismissed.

Miscellaneous petitions, if any, pending in this Transfer Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

16th March, 2018
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