

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR. CRIMINAL PETITION NO.83 OF 2018

ORDER:

This transfer criminal petition is filed under Section 407 Cr.P.C to withdraw M.C.No.5 of 2017 on the file of Family Court, Secunderabad and transfer the same to Family Court at Visakhapatnam.

The first petitioner and first respondent wife and husband and the second petitioner is their daughter, who is stated to be suffering from a developmental disorder that affects communication and behaviour (Autism Spectrum Disorder). The first respondent left to Chennai leaving both the petitioners at Hyderabad on work contract. The first petitioner is taking care of her daughter i.e. second petitioner who was diagnosed with the above said disease and staying in Hyderabad. Further, the first respondent filed F.C.O.P.No.457 of 2016 on the file of Family Court, Secunderabad, seeking decree of divorce, subsequently, the same was transferred to the Family Court at Visakhapatnam and the first petitioner also filed M.C.No.5 of 2017 before the Family Court, Secunderabad, for grant of maintenance.

Notice was ordered by this Court earlier on 05.07.2018 and Sri V. Balram though appeared on behalf of the first respondent, did not advance his arguments.

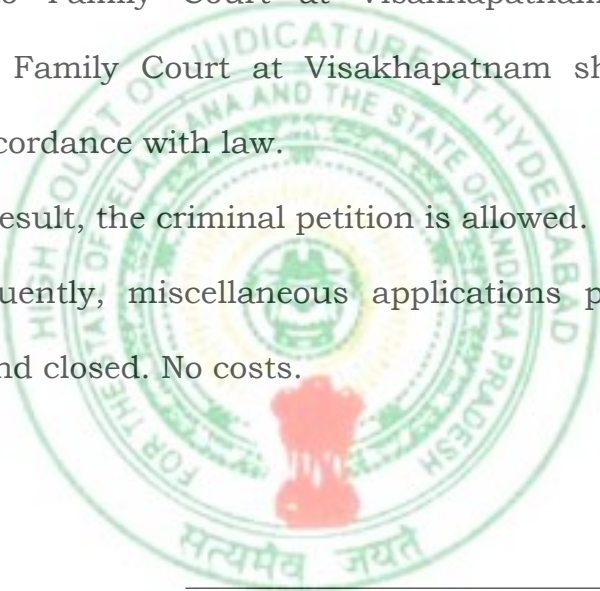
Learned counsel for the petitioner requested to transfer M.C.No.5 of 2017 on the file of Family Court, Secunderabad to the Family Court at Visakhapatnam, as F.C.O.P.No.457 of 2016 on the file of Family Court, Secunderabad was transferred to the Family

Court at Visakhapatnam, as the second petitioner is not in a position to appear before the Court on every date of adjournment and that she is undergoing treatment.

Therefore, by accepting the contention of the learned counsel for the petitioner and by applying the principles laid by the Apex Court in **T. Gayatri Devi v. Dr. Tallepaneni Srikanth**¹ and **Amita shah v. Virender Lal Shah**², to the present facts of the case, this criminal petition is allowed and M.C.No.5 of 2017 on the file of Family Court, Secunderabad is withdrawn and the same is transferred to Family Court at Visakhapatnam. Further, on transfer, the Family Court at Visakhapatnam shall decide the petition in accordance with law.

In the result, the criminal petition is allowed.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.



JUSTICE M. SATYANARAYANA MURTHY

Date: 24.09.2018

SP

¹ 2013 (6) ALT 42 (SC)

² (2003) 10 SCC 609