

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TRANSFER C.M.P.No. 316 OF 2017

ORDER:

This transfer civil miscellaneous petition under Section 24 of C.P.C. is filed by the petitioner-wife to withdraw O.P.No. 110 of 2016 pending on the file of learned Judge, Family Court, Nizamabad (for short, 'the Court at Nizamabad), and transfer the same to the Court of learned Judge, Family Court, City Civil Courts, Hyderabad (for short, 'the Court below'), where M.C.No. 144 of 2017 filed by her is pending, on the ground that while she attending the Court at Nizamabad, the respondent-husband created an unbearable situation and threatened and warned her with dire consequences if she contests the O.P. before the Court at Nizamabad and that she has no male assistance and at the mercy of her parents, she could not appear before the Court at Nizamabad.

2. The respondent though appeared did not file counter.
3. At the hearing, learned counsel for the petitioner has reiterated the grounds urged in the petition.
4. It is an undisputed fact that the respondent filed O.P.No. 110 of 2016 on the file of the Court at Nizamabad under Section 10 of Hindu Marriage Act, 1955, to grant a decree for judicial separation; that the petitioner filed M.C.No. 144 of 2017 on the file of the Court below under Section 125 of Cr.P.C. seeking maintenance from the respondent and that the petitioner also lodged a report which is subject matter in crime No. 116 of 2017 of Women Police Station, D.D., Hyderabad, registered for the offences punishable under Sections 498-A and 406 of IPC and Sections 4 and 6 of Dowry Prohibition Act. The only grievance of the petitioner before this Court is that the petitioner is unable to appear before

the Court at Nizamabad due to threat of the respondent and that apart, M.C.No. 144 of 2017 filed by her is pending before the Court below. When the petitioner is claiming that she has no means to maintain herself, it is difficult for her to appear before the Court at Nizamabad undertaking journey of more than 200 kilometers on every date of adjournment. The other ground that the petitioner is facing threat in the hands of the respondent is not substantiated by any material and she never lodged any complaint against the respondent with police concerned or at least she has not reported the same to the Presiding Officer of the Court at Nizamabad. In the absence of any material that the petitioner is being threatened by the respondent, O.P.No. 110 of 2016 on the file of the Court at Nizamabad cannot be withdrawn based on such unsubstantiated bald allegation.

5. Therefore, in view of the inability of the petitioner to undertake journey incurring expenses, the respondent is directed to pay expenses of traveling, stay and other incidental expenses to the petitioner whenever she attends the Court at Nizamabad in connection with O.P.No. 110 of 2016 while dispensing with her appearance on all dates of adjournments except on the date of reconciliation and for recording her cross-examination.

6. With the above direction, the transfer civil miscellaneous petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed in consequence.

Date: 15-11-2018.

JSK

M.SATYANARAYANA MURTHY, J.