

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P. No.214 of 2018

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.121 of 2018 from the file of the Family Court, Vijayawada, and transfer the same to the file of the Court of the Senior Civil Judge at Narsapur, West Godavari District.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 30.11.2015 at Vijayawada, as per Hindu Rites and Caste Custom. 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 male child. Unfortunately, bad weather prevailed in the family life of the petitioner and respondent. Therefore, the petitioner has been residing at Achanta Village at her parents' house. While things stood thus, the respondent filed F.C.O.P.No.121 of 2018 on the file of the Family Court, Vijayawada, under Section 9 of the Hindu Marriage Act, 1955, against the petitioner for restitution of conjugal rights. The petitioner filed M.C.No.1 of 2018, under Section 125 Cr.P.C., on the file of the Court of the Additional Judicial Magistrate of First Class Palakol, against the respondent seeking maintenance.

4. A perusal of the record reveals that the petitioner lodged a complaint against the respondent. As rightly pointed out by the learned counsel for the petitioner, the petitioner has to face some difficulty to attend the Court at Vijayawada along with her son.

Invariably, the respondent has to attend the Court of the Additional Judicial Magistrate of First Class, Palakol, in order to prosecute M.C.No.1 of 2018.

5. 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, to the wife and children. As per the principle enunciated in **T.Gayatri Devi v. Dr. Tallepaneni Sreekanth¹, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

6. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, I am of the considered view that the relief sought by the petitioner deserves to be allowed.

7. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.121 of 2018 is withdrawn from the file of the Family Court, Vijayawada, and transferred to the file of the Court of the Senior Civil Judge at Narsapur, West Godavari District, for disposal in accordance with law. There shall be no order as to costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 21.06.2018
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¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396