

HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.768 of 2016

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw H.M.O.P.No.1252 of 2016 from the file of the Family Court, Visakhapatnam, and transfer the same to the Court of Senior Civil Judge, Kakinada.

2. In spite of service of notice, the respondent did not choose to appear and oppose the petition. Hence, this Court is inclined to pass orders on merits. Heard the learned counsel for the petitioner and perused the record.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 10.05.2015 at Annavaram Devasthanam, East Godavari District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For one reason or the other, disputes arose between the petitioner and the respondent, therefore, the petitioner has been residing at her parents house in Kakinada. Basing on the complaint lodged by the petitioner, the Station House Officer, Women Police Station, registered a case in Crime No.106 of 2016 against the respondent and others under Section 498-A IPC and 3 and 4 of Dowry Prohibition Act. The petitioner filed D.V.C.No.16 of 2016 on the file of the Court of V Additional Judicial Magistrate of First Class, Kakinada, against the respondent seeking various reliefs. While things stood thus, the respondent filed

H.M.O.P.No.1252 of 2016 on the file of the Family Court, Visakhapatnam, against the petitioner under Section 9 of the Hindu Marriage Act. It is the case of the petitioner that she is facing much difficulty to travel from Kakinada to Visakhapatnam. Invariably, the respondent has to attend the Court of V Additional Judicial Magistrate of First Class, Kakinada, in view of pendency of D.V.C.No.16 of 2016. 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, the wife.

4. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao¹, Rachna Kanodia v. Anuk Kanodia²**, and **Sumita Singh v. Kumar Sanjay³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, this Court is of the considered view that the petitioner deserves the relief sought for.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.1252 of 2016 is withdrawn from the file of the Family Court, Visakhapatnam, and transferred to the file of III Additional Senior Civil Judge, Kakinada, for disposal in

¹ AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441

² 2001(7) Supreme 96

³ AIR 2002 SC 396

accordance with law. As a sequel, miscellaneous petitions,
pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Dt:05.10.2018

Rns

