

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.535 of 2017

ORDER:

This transfer petition is filed under Section 24 of CPC, seeking to withdraw F.C.M.O.P. No.23 of 2017 from the file of the Family Court, Srikakulam and transfer the same to the file of the III Additional District Court, Bhimavaram, West Godavari District.

2. Heard learned counsel for both the parties.

3. A perusal of the record reveals that the marriage of the petitioner was solemnized with the respondent on 25.11.2004 at Munipambala Village, Nalgonda District, according to Christian rites and customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with two children. For one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner along with the children has been residing at her parents' house at Akividu in West Godavari District. Basing on the complaint lodged by the petitioner, the Station House Officer, Akividu Police Station, registered a case in Crime No.60 of 2017 for the offences punishable under Sections 498-A and 509 read with 34 of IPC against the respondent and his relatives and the same is pending on the file of the Court of II Additional Judicial Magistrate of First Class, Bhimavaram.

4. It is the case of the petitioner that she is facing much difficulty to travel from Akividu to Srikakulam to defend F.C.M.O.P. No.23 of 2017 filed by the respondent. As rightly pointed out by the learned counsel for the petitioner, it may not be possible for the petitioner, to travel along with her children, from Akividu to Srikakulam, without the assistance of one of the male members of the family. Invariably, the respondent has to attend the Court of II Additional Judicial Magistrate of First Class, Bhimavaram in connection with Crime No.60 of 2017.

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, Sumita Singh v. Kumar Sanjay² and Rachna Kanodia v. Anuk Kanodia³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

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 can be granted. Learned counsel for the respondent submitted that the presence of the respondent before the III Additional District Court, Bhimavaram, in connection with F.C.M.O.P. No.23 of 2017, may be dispensed with on each and every date of adjournment.

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96

7. Accordingly, the Transfer CMP is allowed. F.C.M.O.P. No.23 of 2017 is withdrawn from the file of the Family Court, Srikakulam and transferred to the file of the III Additional District Court, Bhimavaram, for disposal in accordance with law. The presence of the respondent before the III Additional District Court, Bhimavaram, in connection with F.C.M.O.P. No.23 of 2017, is dispensed with on each and every date of adjournment. However, the respondent shall appear before the III Additional District Court, Bhimavaram, as and when his presence is required in connection with F.C.M.O.P. No.23 of 2017. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

Date: 29.11.2018
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T.SUNIL CHOWDARY, J

