

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.335 OF 2018

ORDER:

1 This petition is filed under Section 24 of C.P.C seeking to withdraw F.C.O.P.No.142 of 2018 pending on the file of the Family Court, Visakhapatnam and transfer the same to the Court of the Senior Civil Judge, Mangalagiri.

2 Heard the learned counsel for both parties and perused the record.

3 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 21.05.2014 at Vijayawada as per Hindu rites and caste custom. Immediately after the marriage the petitioner joined the respondent to lead marital life. Out of their lawful wedlock, the petitioner and the respondent were blessed with one son. For one reason or the other, disputes arose between the petitioner and the respondent. Therefore, the petitioner has been residing at Mangalagiri along with her son.

4 While things stood thus, the respondent filed F.C.O.P.No.142 of 2018 against the petitioner on the file of the Family Court, Visakhapatnam under Section 13 (ia) & (ib) of the Hindu Marriage Act for dissolution of marriage.

5 It is the case of the petitioner that she filed M.C.No.20 of 2017 on the file of the Court of the I Additional JFC Magistrate, Mangalagiri against the respondent seeking maintenance. It is the further case of the petitioner that she is facing much difficulty to travel from Mangalagiri to Visakhapatnam along with her son in order to prosecute the O.P. While deciding the petition of this nature, the Court has to take into consideration the inconvenience of the parties to the proceedings, more particularly, the wife.

6 As per the principle enunciated in **Sumita Singh Vs. Kumar Sanjay¹**, **Rachna Kanodia Vs. Anuk Kanodia²**, and **V. Sailaja Vs. V. Koteswara Rao³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife. 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 petitioner deserves the relief as sought for. Invariably the respondent has to attend the I Additional JFC Magistrate Court at Mangalagiri in order to prosecute the M.C. filed by the petitioner.

7 At the time of arguments, the learned counsel for the respondent submitted that the presence of the respondent before the Senior Civil Judge Court, Mangalagiri on each and every date of adjournment may be dispensed with. Even if the presence of the respondent is dispensed with on each and every date of adjournment, no prejudice will be caused to the petitioner.

8 In the result, the petition is allowed, F.C.O.P.No.142 of 2018 pending on the file of the Family Court, Visakhapatnam is withdrawn from the file of the said court and is transferred to the Senior Civil Judge Court, Mangalagiri for disposal in accordance with law. The presence of the respondent before the Senior Civil Judge Court, Mangalagiri, in connection with the F.C.O.P.No.142 of 2018, is dispensed with on each and every date of adjournment. However, the respondent shall attend the Senior Civil Judge Court, Mangalagiri as and when his presence is so required. As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: December 14, 2018
Kvsn

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178