

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.268 OF 2017

ORDER:

1 This petition is filed under Section 24 of C.P.C seeking to withdraw M.O.P.No.32 of 2017 pending on the file of the Principal Senior Civil Judge, Srikakulam to any Court in Visakhapatnam.

2. Heard learned counsel for both parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 21.05.2005 as per Hindu rites and caste customs. 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 daughter, who is now aged about 11 years. While things stood thus, the respondent filed M.O.P.No.32 of 2017 on the file of the Principal Senior Civil Judge, Srikakulam against the petitioner under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights. The petitioner has been residing at her parents' house in Visakhapatnam, along with her daughter.

4. Learned counsel for the petitioner submitted that the petitioner is facing much difficulty to attend the Court at Visakhapatnam in order to prosecute M.O.P.

5. While deciding the petition of this nature, the Court has to consider the convenience of the parties to the proceedings, more particularly, the wife.

6. A perusal of the record reveals that a criminal case is pending against the respondent in Criminal Court at

Visakhapatnam. Invariably, the respondent has to attend the Criminal Court at Visakhapatnam.

7. As per the principle enunciated in **Sumita Singh Vs. Kumar Sanjay**¹, **Rachna Kanodia Vs. Anuk Kanodia**², and **V. Sailaja Vs. V. Koteswara Rao**³, 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. The learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Court at Visakhapatnam on each and every adjournment.

8. In the result, the petition is allowed. M.O.P.No.32 of 2017 pending on the file of the Principal Senior Civil Judge, Srikakulam, is withdrawn from the file of the said court and is transferred to the Family Court, Visakhapatnam, for disposal in accordance with law. The presence of the respondent before the Family Court, Visakhapatnam in connection with M.O.P. No.32 of 2017 is hereby dispensed with on each and every date of adjournment. However, the respondent shall appear before the Family Court, Visakhapatnam, as and when his presence is required.

9. As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Dated: 24-08-2018
Hsd

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178