

SMT. JUSTICE T.RAJANI

Transfer Criminal Petition No.86 of 2017

ORDER:

This petition is filed seeking to set aside the order dated 15.12.2016 made in CrI.MP. No.1503 of 2016 in MC. No.5 of 2016, on the file of the Principal Sessions Judge, Kadapa consequently withdraw the MC. No.5 of 2016 from the file of Judicial First Class Magistrate, Kamalapuram and transfer the same to the Court of Judge, Family Court, Kadapa to be tried along with FCOP. No.39 of 2016.

Brief facts of the case are that the petitioner filed FCOP. No.39 of 2016 under Section 32 of the Divorce Act, 1869. Subsequent to filing of said OP., the first respondent herein filed MC.No.5 of 2016, seeking maintenance from the petitioner, before the Court of Judicial Magistrate of First Class, Kamalapuram. Since both the proceedings are interlinked and the evidence to be let in, in both the cases, is one and the same, the petitioner filed Criminal Petition MP. No.1503 of 2016 in M.C. No.5 of 2016, before the Court of Principal Sessions Judge, Kadapa, seeking to transfer the M.C. No.5 of 2016 to the Court of Judge, Family Court, to be tried along with the FCOP. No.39 of 2016 and the learned Principal Sessions Judge vide order dated 15.12.2016 dismissed the same. Assailing the same, the petitioner filed the present petition.

The main ground on which the petitioner sought for the transfer is that the first respondent is also working at Kadapa, which is evidenced by the Proceedings dated 30.06.2016 of the Principal SKR & SKR Government College for Women, Kadapa.

The learned counsel for the first respondent opposes the said transfer by drawing the attention of this Court to the contents of the said Proceedings wherein it is mentioned that the salary was drawn by the respondent from the month of August, 2015 to February, 2016 only.

He also refutes the submission that the respondent is working in Kadapa, by saying that she has given-up the job at Kadapa.

The submission made by the learned counsel for the respondent, coupled with the Proceedings dated 30.06.2016, would clearly show that only particular period was mentioned as the period for which the respondent had drawn the salary and it would add strength to the fact that she is not working at Kadapa. Hence, in the facts and circumstances of the case, transfer of MC.No.5 of 2016 from the file of the Judicial First Class Magistrate, Kamalapuram to Kadapa would not meet the ends of justice and therefore, this petition is liable to be dismissed and accordingly, is dismissed.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

Date: 03.01.2018
LSK

JUSTICE T.RAJANI

