

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

TRANSFER C.M.P. No.62 OF 2017

ORDER:

This Transfer C.M.P. is filed, under Section 24 of the Code of Civil Procedure, 1908 (for short 'Code'), by the petitioner - wife to withdraw O.P. No.63 of 2016 filed by the respondent - husband under Section 13 (1) (ia) (ib) of the Hindu Marriage Act, 1955 (for short 'Act, 1955') to dissolve the marriage between them by granting decree of divorce, from the file of learned Senior Civil Judge, Karimnagar, and transfer the same to the learned Judge, Family Court, Ranga Reddy District at L.B. Nagar.

2. The main ground urged by the petitioner - wife before this Court is that the respondent - husband filed the aforesaid O.P. before the learned Senior Civil Judge, Karimnagar, for grant of decree of divorce only to harass her so as to enable him to obtain an *ex parte* decree as the petitioner - wife being a woman is not in a position to appear before the Court at Karimnagar on every date of adjournment along with a small child and, therefore, to avoid such difficulty and to face fair trial, she requested to withdraw O.P. No.63 of 2016 from the file of the Senior Civil Judge, Karimnagar and transfer the same to the Judge, Family Court, Ranga Reddy District at L.B. Nagar.

3. Heard Sri V. Eswaraiah Chowdary, learned counsel for the petitioner, at the stage of admission, and he reiterated the grounds urged in the revision and requested to pass appropriate orders.

4. The undisputed facts are that marriage of the petitioner and respondent was performed on 23.12.2012 as per Hindu rites and customs and they lived happily for some time. Out of wedlock, they blessed with a son, who is named as Vaseeth. After sometime of their marriage, disputes arose between them and the petitioner herein lodged a report with the Balanagar Police Station alleging that she was subjected to cruelty for her failure to meet the illegal demand and the police registered a case in Crime No.390 of 2016 on 26.11.2016 against the respondent for the offences punishable under Sections 498-A, 506 and 323 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

i) While the matter stood thus, when the said crime is pending for investigation, taking advantage of petitioner's loneliness and inability to undertake journey up to Karimnagar and with an intention to obtain an *ex parte* decree, respondent - husband filed the aforesaid O.P. under Section 13 (1) (ia) (ib) of the Act, 1955.

5. No doubt, the petitioner is a woman, aged 23 years and blessed with a child now aged about four years. The distance between Hyderabad and Karimnagar is about 163 kilometers and it is a matter of about three hours journey, and apart from that she is not required to appear before the learned Senior Civil Judge at Karimnagar on every date of adjournment except on dates of reconciliation proceedings and on dates of her cross-examination. Even to avoid her appearance on the

date of her cross-examination, she may request the Court for appointment of an Advocate Commissioner to record her cross-examination. Therefore, her inability to travel covering the distance of about 163 kilometers by itself is not a ground to seek transfer and if for any reason the aforesaid OP is withdrawn from the Court at Karimnagar and transferred to the Court at L.B. Nagar, Ranga Reddy District, the respondent - husband will have to face the same difficulty. Therefore, in order to avoid difficulty to both parties, learned Senior Civil Judge, Karimnagar is directed not to insist the appearance of petitioner - wife on every date of adjournment as long as she is being represented by counsel except on the dates of reconciliation proceedings and on the dates of recording her cross-examination. Further, whenever the petitioner - wife appears before the learned Senior Civil Judge, Karimnagar the respondent - husband is directed to pay travelling expenses and other incidental expenses, such as expenses for food, shelter and stay as determined by the learned Senior Civil Judge, Karimnagar.

6. In view of the aforesaid direction, the petitioner - wife is not required to appear before the learned Senior Civil Judge, Karimnagar, except for the purposes mentioned above and the difficulty expressed by the petitioner to appear before the Court at Karimnagar is not a ground to exercise power under Section 24 of the Code to withdraw the aforesaid OP from the file of the Senior Civil Judge at Karimnagar and transfer the same to the Judge, Family Court, Ranga Reddy District at

L.B. Nagar. However, this order will not preclude the learned Senior Civil Judge to pass appropriate order in accordance with law

7. Accordingly, the present Civil Revision Petition is disposed of.

No order as to costs.

Consequently, the Miscellaneous Petitions, if any, pending in the present revision, stand closed.

JUSTICE M. SATYANARAYANA MURTHY

October 24, 2018
Mgr

