

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.513 OF 2018

ORDER:

1 This petition is filed under Section 24 of C.P.C seeking to withdraw F.C.O.P.No.46 of 2018 pending on the file of the Court of the XV Additional District Judge-cum-II Family Court, Miyapur, Ranga Reddy District to the Family Court, Kurnool.

2 The notice sent to the respondent returned 'unclaimed'. Service of notice on the respondent is sufficient. Hence this Court is inclined to pass orders on merits. Heard the learned counsel for the petitioner and perused the record.

3 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 05.05.2017 at Akkayapalem, Visakhapatnam 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 a son on 25.4.2018. For one reason or the other, disputes arose between the petitioner and the respondent. Therefore, the petitioner has been residing at her parents' house at Kurnool.

4 While things stood thus, the respondent filed F.C.O.P.No.46 of 2018 pending on the file of the Court of the XV Additional District Judge-cum-II Family Court, Miyapur, Ranga Reddy District, under Section 9 of the Hindu Marriage Act against the petitioner for restitution of conjugal rights.

5 It is the case of the petitioner that she is not in a position to attend the Court at Miyapur, in order to prosecute the F.C.O.P, along

with her son who is aged 6 months. While deciding the petition of this nature, the Court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings, more particularly, the wife.

6 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.

7 In the result, the petition is allowed, F.C.O.P.No.46 of 2018 pending on the file of the Court of the XV Additional District Judge-cum-II Family Court, Miyapur, Ranga Reddy District is withdrawn from the file of the said court and is transferred to the Family Court, Kurnool for disposal in accordance with law. As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: October 5, 2018
Kvsn

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178