

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No.745 of 2016

ORDER:

This transfer petition is filed under Section 24 of CPC, seeking to withdraw F.C.O.P. (M.D.O.P.) No.117 of 2016 from the file of the Family Court, Guntur and transfer the same to the file of the Family Court, Ranga Reddy District at L.B. Nagar.

2. In spite of service of notice, respondent did not choose to appear and oppose the petition; hence, this Court is inclined to pass the orders on merits.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 20.2.2009 at Nagole, Hyderabad, as per Muslim rites and customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Saroornagar, Ranga Reddy District. The respondent is facing trial in C.C.No.301 of 2016 on the file of the Court of XIV Metropolitan Magistrate, Ranga Reddy District at L.B. Nagar, for the offence under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. While the things stood thus, the respondent filed F.C.O.P. (M.D.O.P.) No.117 of 2016 on the file of the Family Court, Guntur, against the petitioner, to declare the marriage between the petitioner and respondent held on 20.2.2009 was dissolved as the respondent pronounced Talak to the petitioner on 05.10.2015 as per the provisions/principles of the Mohammedan Law.

4. It is the case of the petitioner that she is facing much difficulty to travel from Hyderabad to Guntur to attend the Family Court, Guntur in order to defend F.C.O.P. (M.D.O.P.) No.117 of 2016 filed by the respondent. As rightly pointed out by the learned counsel for the petitioner, it may not be possible for the petitioner, to travel from Hyderabad to Guntur, without the assistance of one of the male members of the family.

5. While deciding the petitions of this nature, the court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings more particularly to the wife and children. As per the principle enunciated in **T.Gayatri Devi v Dr.Tallepaneni Sreekanth**¹, **Sumita Singh v. Kumar Sanjay**² and **Rachna Kanodia v. Anuk Kanodia**³, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

6. 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 relief sought by the petitioner can be granted.

7. Accordingly, the Transfer CMP is allowed. F.C.O.P. (M.D.O.P.) No.117 of 2016 is withdrawn from the file of the Family Court, Guntur and transferred to the file of the Family Court, Ranga Reddy District at L.B. Nagar, for disposal in accordance with law. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 08.10.2018
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¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96