

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TR.CMP.No.650 OF 2018

ORDER:

1 This petition is filed under Section 24 of C.P.C seeking to withdraw F.C.O.P.No.1390 of 2018 pending on the file of the Family Court, Visakhapatnam and transfer the same to the Family Court at Vijayawada.

2 Heard the learned counsel for both parties and perused the record.

3 A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 22.07.2001 at Vijayawada as per Hindu rites and caste custom. 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 Vijayawada.

4 While things stood thus, the respondent filed F.C.O.P.No.1390 of 2018 against the petitioner on the file of the Family Court, Visakhapatnam under Section 9 of the Hindu Marriage Act for restitution of conjugal rights.

5 It is the case of the petitioner that she filed D.V.C.No.31 of 2013 on the file of the Court of the I Additional Chief Metropolitan Magistrate, Vijayawada against the respondent seeking various reliefs. It is the further case of the petitioner that she is facing much difficulty to travel from Vijayawada to Visakhapatnam in order to prosecute the F.C.O.P. 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 Sanjay¹**, **Rachna Kanodia Vs. Anuk Kanodia²**, and **V. Sailaja Vs. V. Koteswara Rao³**, 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. Invariably the respondent has to attend the Court of the I Additional Chief Metropolitan Magistrate, Vijayawada in order to prosecute the DVC 31 of 2013 filed by the petitioner.

7 At the time of arguments, the learned counsel for the respondent submitted that the presence of the respondent before the Family Court, Vijayawada on each and every date of adjournment may be dispensed with. Even if the presence of the respondent is dispensed with on each and every date of adjournment, no prejudice will be caused to the petitioner.

8 In the result, the petition is allowed, F.C.O.P.No.1390 of 2017 pending on the file of the Family Court, Visakhapatnam is withdrawn from the file of the said court and is transferred to the Family Court, Vijayawada for disposal in accordance with law. The presence of the respondent before the Family Court, Vijayawada, in connection with the F.C.O.P.No.1390 of 2017, is dispensed with on each and every date of adjournment. However, the respondent shall attend the Family Court, Vijayawada as and when his presence is so required. As a sequel, miscellaneous petitions, if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: December 14, 2018
Kvsn

¹ AIR 2002 SC 396

² 2001 (7) Supreme 96

³ AIR 2003 AP 178