

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

TR.CIVIL MISCELLANEOUS PETITION NO.662 OF 2018

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of Code of Civil Procedure 1908, is filed to withdraw O.P.No.1216 of 2017 pending on the file of Judge, Family Court, Vijayawada and transfer the same to the file of Judge, Family Court at L.B.Nagar, Ranga Reddy District.

2. The contention of the petitioner/wife is that she being lady unable to undertake journey from Hyderabad to Vijayawada along with child aged four years and that she is facing life threat to appear before the Court at Vijayawada and that on one occasion, when she went to the house of the respondent and joined with him to lead marital life, the respondent take her child forcibly and necked her out from the house. Thus, the respondent threatening her with dire consequences and in case she is forced to appear before the Court at Vijayawada, she has to face much difficulty to prosecute the case. Therefore, requested to withdraw and transfer O.P.No.1216 of 2017 from the file of Judge, Family Court, Vijayawada to the file of Judge, Family Court at L.B.Nagar.

3. At the stage of admission, learned counsel for the petitioner reiterated the contentions raised in the petition and also brought to the notice of this Court that the petitioner lodged report with the Police L.B.Nagar for the offence punishable under Section 498-A IPC, which is subject matter of Crime No.46 of 2017 and in connection with that crime she has to appear before the police and that the police has to file final report.

4. Admittedly, O.P. is pending before the Judge, Family Court, Vijayawada for dissolution of marriage on various grounds. The

allegations made by the petitioner is that she is facing difficulty to appear before the Court i.e. life threat, but no material is produced to substantiate such contention. If the petitioner was subjected to such threat, when she attended the Court in connection with O.P., she would have lodge report with the police concerned or complain to the Judge, Family Court. But no such complaint was lodged having prosecuted O.P. for a period of one year. If really, the petitioner is facing threat, necessary police protection can be provided whenever she attends the Court in connection with O.P. Therefore, I find that it is appropriate to direct the Judge Family Court, Vijayawada to provide necessary police protection whenever, the petitioner appears before the Court in connection with O.P. on the application made by the petitioner, which would serve the purpose.

Pendency of Crime No.46 of 2017 before the Police L.B.Nagar is not a ground to withdraw O.P.. No doubt, the petitioner, being lady may face difficulty to undertake journey covering distance of 267km from Hyderabad to Vijayawada along with the child aged four years. In case O.P. is withdrawn and transferred from Vijayawada to Hyderabad, the respondent has to face same difficulty. But the degree of difficulty may vary from men to women, but that itself is not a ground to decide the petition. According to Section 11 of the Family Court's Act, if there is any serious allegation touching the character of either of the parties, the Court may proceed with the trial in-camera.

The Apex Court in “**Santhini v. Vijaya Venketesh**¹, while overruling a part of the Judgment in **Krishna Veni Nagam v. Harish Nagam**² held that while deciding a petition filed under Section 24 of CPC, the judgments of any Court under Section 24 CPC are not precedents and each case has to be decided on its own merits. The Court can proceed to

¹ (2018) 1 SCC 1

² (2017) 4 SCC 150

record evidence by video conference. At present, O.P. is not reached that stage. Hence, the petitioner has to appear before the Court for reconciliation. Therefore, it is not appropriate to issue any direction to follow the guidelines issued by the Apex Court in **Santhini's** case referred supra, however, the Judge, Family Court may record evidence by video conference in case both parties agreed for the same in terms of guidelines of **Santhini's** case referred supra. In view of my fore going discussion, I find that it is a fit case to issue a direction to the Judge, Family Court, Vijayawada to provide necessary police protection when ever the petitioner attends the Court in connection with O.P on receipt of application.

5. In the result, the Transfer Civil Miscellaneous Petition is disposed of directing the Judge, Family Court, Vijayawada to provide necessary police protection when ever the petitioner attends the Court in connection with O.P on receipt of application. No costs.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

22.10.2018
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M. SATYANARAYANA MURTHY, J