

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Tr.C.M.P.No.665 of 2018

ORDER

This petition is filed under Section 24 of C.P.C., to withdraw and transfer O.P.No.191 of 2017 pending on the file of Principal Senior Civil Judge, Srikakulam, to the Family Court, Vijayawada, or any other Court at Vijayawada.

2. The case of the petitioner is that her marriage was performed with the respondent on 08.03.2015 as per Hindu rites and customs at Sri Srinivasa Kalyanamandapam, and thereafter, due to disputes, she was necked out within short time from the matrimonial house and that since November, 2016, she is under the shelter of her parents. While the matter stood thus, the respondent filed O.P.No.131 of 2017 on the file of the Principal Senior Civil Judge, Srikakulam, under Section 13(1)(ia) of Hindu Marriage Act, 1955 (for short 'the Act'), for dissolution of marriage by granting a decree of divorce. The petitioner filed O.P.No.191 of 2017 on the file of Principal Senior Civil Judge, Srikakulam, under Section 9 of the Act, for restitution of conjugal rights and she has been attending the Court on each and every adjournment whenever her presence is required. Whereas the respondent is working at Madhya Pradesh and his parents are staying at Srikakulam, whenever she attended the Court, she is receiving threats from the parents of the respondent, as a result of which, she lodged a report with the police and the same was registered as Cr.No.282 of 2018 under Sections

498-A, 377, 323, 506 read with Section 34 IPC, which is pending for investigation with the police at Vijayawada, and that in view of the threats from her in-laws, she sought for withdrawal of O.P.No.191 of 2017 pending on the file of Principal Senior Civil Judge, Srikakulam, to the Judge, Family Court at Vijayawada, or any other competent Court at Vijayawada.

3. During hearing, learned counsel for the petitioner Sri K. Ravi, contended that the petitioner also filed another Tr.C.M.P., for withdrawal of O.P.No.131 of 2017 pending on the file of the Principal Senior Civil Judge, Srikakulam, wherein a notice was ordered by this Court. He further contended that in the said transfer petition, she alleged that as she is facing threat, it is difficult for her to appear before the Court as and when required and to undertake journey from Vijayawada to Srikakulam, which is about 500 kms away from her place and requested this Court to withdraw the said O.P.

4. It is an undisputed fact that the respondent filed O.P.No.131 of 2017 under Section 13(1)(ia) of the Act, for dissolution of marriage by granting a decree of divorce and the petitioner filed another O.P.No.191 of 2017 under Section 9 of the Act, for restitution of conjugal rights. Both the O.Ps, are pending before the Principal Senior Civil Judge at Srikakulam. The petitioner is not required to appear before the Court on each and every date of adjournment and therefore, her presence, at best, is required for reconciliation being taken up by the Presiding Officer of the Court on appearance of both the parties and on the date of her examination before the Court as a

witness. In such circumstances, the alleged apprehension is misplaced and in the event she is facing any life threat from the parents or relatives of the respondent, she may lodge a report with the police concerned or at least gave a complaint to the Presiding Officer of the Court against them, and on receipt of such complaint, either the police having jurisdiction where the offence took place or the Presiding Officer of the Court may provide necessary protection to her to appear before the Court to face the trial without any fear in her mind. Therefore, the alleged apprehension in her mind is not a ground to divert the jurisdiction vested on the Court at Srikakulam and apart from that, pendency of a crime with the police at Vijayawada is not at all a ground since the offence, if any, shall be tried by the Magistrate having jurisdiction over the area and cannot be tried along with O.Ps. That apart, it is only at the crime stage and no charge sheet is filed. Therefore, registration of crime against the parents or relatives of the respondent is not a ground to exercise power under Section 24 of CPC to withdraw and transfer O.P.No.191 of 2017 from the Court of Principal Senior Civil Judge, Srikakulam to any other Court at Vijayawada. However, liberty is given to the petitioner to lodge a complaint with the police having jurisdiction over the area where the alleged threat faced by her or to complain to the Presiding Officer of the Court, and on receipt of any such complaint, the Presiding Officer of the Court is directed to provide necessary police protection to the petitioner whenever she attends the Court in connection with O.P.No.191 of 2017.

5. With the above direction, the Transfer Civil Miscellaneous Petition is disposed of, having found no ground to withdraw and transfer O.P.No.191 of 2017 from the file of Principal Senior Civil Judge at Srikakulam, to any other competent Court at Vijayawada. No order as to costs. Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

23rd October, 2018

sj

