

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

Tr.C.M.P.No.686 of 2018

ORDER:

This petition is filed under Section 24 of C.P.C. seeking to withdraw F.C.O.P.No.142 of 2017 from the file of the Family Court at Rajamahendravaram and transfer the same to the file of the Court of the Senior Civil Judge Court at Bhimavaram.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 01.06.2010 at Kirana Merchants Association Hall at Bhimavaram, as per Hindu Rites and Caste Customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, the petitioner and respondent were blessed with one son. For one reason or other, disputes arose between the petitioner and respondent; therefore, the petitioner has been residing at her parents' house in Bhimavaram along with her son. The petitioner filed M.C.No.37 of 2018, under Section 125 Cr.P.C., on the file of the Court of II Additional Judicial First Class Magistrate, Bhimavaram, against the respondent claiming maintenance. While things stood thus, the respondent filed F.C.O.P.No.142 of 2017, under Section 13(1)(ia)(ib) of Hindu Marriage Act, on the file of the Family Court at Rajamahendravaram, against the petitioner for dissolution of marriage between them.

4. It is the case of the petitioner that she is facing much difficulty to travel from Bhimavaram to Rajahmundry in order to prosecute F.C.O.P.No.142 of 2017.

5. As rightly pointed out by the learned counsel for the petitioner, the petitioner may face some difficulty to travel from Bhimavaram to Rajahmundry along with her son. Invariably, the respondent has to attend the Court of II Additional Judicial First Class Magistrate, Bhimavaram, in view of pendency of M.C.No.37 of 2018.

6. 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 Sreekanth¹, Rachna Kanodia v. Anuk Kanodia²** and **Sumita Singh v. Kumar Sanjay and another³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife.

7. 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 deserves to be granted.

8. Learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before the Court of Senior Civil Judge at Bhimavaram on each and every date of adjournment.

9. In the result, the Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.142 of 2017 is withdrawn from the file of the Family Court at Rajamahendravaram and transferred to the file of

¹ 2013 (6) ALT 42 (SC)

² 2001 (7) Supreme 96

³ AIR 2002 SC 396

the Court of the Principal Senior Civil Judge Court at Bhimavaram, for disposal in accordance with law. The presence of the respondent in connection with F.C.O.P.No.142 of 2017 on the file of the Court of the Principal Senior Civil Judge Court at Bhimavaram is dispensed with on each and every date of adjournment. However, he shall appear before the trial Court as and when his presence is so required. There shall be no order as to costs.

10. Consequently, Miscellaneous Petitions, if any, pending in this Transfer Civil Miscellaneous Petition shall stand closed.

Date: 20.12.2018
Ivd

T.SUNIL CHOWDARY, J

