

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Transfer Criminal Petition No.248 of 2017

ORDER:

In this petition filed under Section 407 Cr.P.C., the petitioner/*defacto* complainant seeks to transfer C.C.No.911 of 2015 pending on the file of XX Metropolitan Magistrate, Cyberabad at Malkajgiri, to any competent Court at Nellore.

2 a) The petitioner's case is that 1st respondent is her husband and when he harassed her both physically and mentally for want of additional dowry, she lodged a complaint with Kusaiguda PS, Cyberabad and a case in Crime No.533/2014 was registered against the 1st respondent/accused for the offences under Sections 498-A, 324 IPC, Sections 3 & 4 of D.P. Act and after investigation charge sheet was filed and case was registered as C.C.No.911/2015 on the file of XX Metropolitan Magistrate, Cyberabad at Malkajgiri.

b) The petitioner's submission is that the 1st respondent filed O.P.No.1030/2015 before the Judge, Family Court, R.R.District at L.B.Nagar for divorce. She filed Tr.C.M.P.No.538/2015 seeking to transfer the said O.P to the Family Court, Nellore on the submission that she is residing with her parents at Nellore and that she has no source of income to come all the way from Nellore to L.B.Nagar to pursue the said O.P. The said Tr.Cr.M.P was allowed on 09.12.2015

and the O.P.No.1030 of 2015 was transferred to the court of Judge, Family Court, Nellore and re-numbered as O.P.No.86/2016. Thereafter, she filed M.C.No.16 of 2016 before the Judge, Family Court, Nellore and also DVC No.30/2016 before the Special Judicial Magistrate of First Class for Trial of Excise Cases at Nellore. Thus the petitioner submits that since the MC No.16/2016, DVC No.30/2016 and divorce OP.No.86/2016 are pending before different Courts at Nellore, the C.C.No.911/2015 pending on the file of XX Metropolitan Magistrate, Cyberabad at Malkajgiri, may also be transferred to any competent court at Nellore in order to avoid conflicting orders and for the sake of convenience.

3) Heard arguments of Smt. M.Suguna, learned counsel for petitioner and Sri Solomon Raju Manchala, learned counsel for 1st respondent.

4) The point for determination in this petition is:

“Whether there are merits in this petition to allow?”

5) **POINT:** The submission of learned counsel for petitioner is that since M.C.No.16/2016, DVC No.30/2016 and divorce OP.No.86/2016 are all pending in different Courts at Nellore, it is apposite to transfer C.C.No.911/2015 pending on the file of XX Metropolitan Magistrate, Cyberabad at Malkajgiri, to any competent Court at Nellore. It is further submitted that the petitioner is not having any means to

support herself and her 5 years old child and if C.C is continued at Hyderabad, it will be very difficult for her to attend the Court.

6) On the other hand, opposing the petition learned counsel for the 1st respondent would submit that C.C.No.911/2015 is not a private complaint but cognizance was taken on the charge sheet filed by the police and hence, the petitioner need not attend the case for every adjournment except once for giving evidence. Therefore, there is no need to transfer the case. Learned counsel would further submit that if C.C. No.911/2015 is transferred from Hyderabad to Nellore, the 1st respondent being the accused, has to attend the Court at Nellore for every adjournment and since he is an employee at Hyderabad, it will be very difficult for him to secure leave to attend the Court at Nellore.

7) This Court finds force in the submission of learned counsel for 1st respondent that in C.C.No.911/2015 cognizance was taken on the charge sheet filed by police of Kushaiguda PS, Cyberabad in Crime No.533/2014 and therefore, there is no requirement for the petitioner to appear in the said case for every adjournment in the Court at Hyderabad, suffice for her to attend on the date of her examination. Rest of the trial can be taken care by the Public Prosecutor on behalf of the State. There is no much force in the request of the petitioner. On the other hand, the 1st respondent being the accused has to attend the Court on every adjournment. If the case is transferred to Nellore, it will be difficult for him to secure leave and attend the Court on each and every adjournment. Besides, it is an expensive affair. So in any

view of the matter, there is no reasonability in the request of the petitioner.

8) Accordingly, this Transfer Criminal Petition is dismissed.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 16.04.2018

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