

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

TRANSFER CIVIL MISCELLANEOUS PETITION No. 745 OF 2018

ORDER:

This transfer civil miscellaneous petition is filed by the petitioner-wife, under Section 24 of CPC, seeking to withdraw M.D.O.P.No. 428 of 2018 on the file of Family Court, Guntur, and transfer the same to Family Court, Kurnool.

2. Heard both leaned counsel.

3. A perusal of the record reveals that marriage of the petitioner was performed with the respondent on 17-10-2013 at Mangalagiri as per Muslim rites and caste customs. Immediately after the marriage, the petitioner joined with the respondent to lead marital life. Out of lawful wedlock, the petitioner and the respondent were blessed with twins. Due to one reason or other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Dhone, Kurnool District. The petitioner filed D.V.C.No. 3 of 2016 on the file of Judicial I Class Magistrate's Court, Dhone, against the respondent seeking various reliefs. Basing on the complaint lodged by the petitioner, the Station House Officer, Dhone Police Station, registered a case in crime No. 132 of 2016 for the offences punishable under Section 498-A of IPC and Sections 3 and 4 of Dowry Prohibition Act against the respondent and others. The petitioner also filed M.C.No.19 of 2016 on the file of Judicial I Class Magistrate's Court, Dhone, against the respondent seeking maintenance. While things stood thus, the respondent filed M.D.O.P.No.428 of 2018 on the file of

Family Court, Guntur, for dissolution of the marriage between him and the petitioner.

4. It is the case of the petitioner that she is facing much difficulty to travel from Dhone to Guntur, along with the children. Learned counsel for the respondent submits that the petitioner is residing in Mangalagiri, Guntur District. A perusal of the record *prima facie* reveals that the petitioner filed D.V.C., M.C. and criminal case against the respondent at Dhone in the year 2016 itself.

5. While deciding a petition of this nature, the Court has to take into consideration the inconvenience of the parties to the proceedings, more particularly the wife and the children. Invariably, the respondent has to attend Judicial I Class Magistrate's Court, Dhone, in connection with D.V.C.No. 3 of 2016, M.C.No. 19 of 2016 and criminal case. As per the principle enunciated in ***Sumita Singh Vs. Kumar Sanjay***¹; ***Rachna Kanodia Vs. Anuk Kanodia***²; and ***V.Sailaja Vs. V.Koteswara Rao***³, the paramount consideration in transfer of matrimonial cases is inconvenience of wife.

6. Taking into consideration the facts and circumstances of the case and also the principle enunciated in the cases cited *supra*, I am of the considered view that it is a fit case to allow the petition. The learned counsel for the respondent submitted that the presence of the respondent may be dispensed with before Family Court, Kurnool, on each and every date of adjournment.

¹ AIR 2002 SC 396

² 2001 (7) SUPREME 96

³ AIR 2003 AP 178

7. In the result, the petition is allowed. M.D.O.P.No.428 of 2018 is withdrawn from the file of the Family Court, Guntur and is transferred to the file of the Family Court, Kurnool, for disposal in accordance with law. The presence of the respondent before Family Court, Kurnool, in connection with M.D.O.P.No.428 of 2018, on each and every date of adjournment, is dispensed with. However, the respondent shall appear before Family Court, Kurnool, as and when his presence is so required.

8. Pending miscellaneous petitions, if any, in this transfer civil miscellaneous petition shall stand closed in consequence. No costs.

Date: 19.12.2018
JSK

T.SUNIL CHOWDARY, J

