

HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN

TRANSFER CIVIL MISCELLANEOUS PETITION No.715 of 2017

ORDER:

This is an application seeking transfer of H.M.O.P.No.121 of 2016 from the file of the Senior Civil Judge, Tadepalligudem, West Godavari District.

2. The petitioner wife submits that she is employed in Wipro Company and has also a child to take care of. The material papers however show that even after the institution of H.M.O.P. No.121 of 2016, which is sought to be transferred, the wife gave a First Information Report to the jurisdictional police in Khammam District, on which, a charge sheet has been finalized as C.C.No.1368 of 2017. A Domestic Violence Case (SR) No.1431 of 2017 has also been filed by the wife in Khammam District. She has chosen the place of her parental home to institute those proceedings in the Court of Additional Judicial Magistrate of First Class at Madhira, against her husband, whose application for restitution of conjugal rights stood filed.

3. It appears from among the allegations that the husband had obtained consent for the marriage while playing a fraud on the wife and that he has also been committing acts of cruelty.

Different allegations are made. The husband is also stated to be suffering from night blindness going by the pleadings of the wife.

4. Taking all the facts and circumstances into consideration, this is not a fit case where the application for transfer needs to be allowed at the instance of the wife, who is educated, employed and technically competent, having regard to the relevant specification of area in which she works. However, this is also a case, where the wife, who is seeking transfer, would be permitted to have the benefit of being exempted from personal appearance before the learned Senior Civil Judge, Tadepalligudem, where H.M.O.P.No.121 of 2016 is now pending, so that, she can prosecute without her personal appearance and have the matter carried forward by engaging an Advocate as may be permitted by the Family Court. Her appearance will be only for such purposes and dates, which the learned Senior Civil Judge may order, for completion of the proceedings in H.M.O.P.No.121 of 2016.

5. In the result, while rejecting the request for transfer, it is ordered that appearance of the petitioner will be only for such purposes and dates, which the learned Senior Civil Judge may order, for completion of the proceedings in H.M.O.P.No.121 of 2016.

6. The Transfer Civil Miscellaneous Petition is accordingly ordered.

Pending miscellaneous petitions, if any, shall also stand disposed of.

---

THOTTATHIL B. RADHAKRISHNAN, CJ

Date: 21.12.2018

*kvni*

