

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P. No.825 of 2017

ORDER:

This transfer civil miscellaneous petition is filed by the petitioner, under Section 24 of CPC, seeking to withdraw F.C.O.P.No.2002 of 2017 from the file of the Family Court, Ranga Reddy District at L.B. Nagar and transfer the same to the file of the Family Court, Srikakulam.

2. Heard the learned counsel for both the parties.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 15.12.2015 at Visakhapatnam, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For obvious reasons, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Srikakulam town. While the things stood thus, the respondent filed F.C.O.P. No.2002 of 2017 on the file of the Family Court, Ranga Reddy District at L.B. Nagar, against the petitioner under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights.

4. At the time of arguments, learned counsel for both the parties submitted that F.C.O.P.No.2002 of 2017 is now pending on the file of the Court of XVI Additional District Judge, Malkajgiri. The petitioner filed F.C.M.C. No.34 of 2017 on the file of the Family Court, Srikakulam against the respondent under Section 125 Cr.P.C., seeking maintenance. The respondent is the accused in C.C.No.976 of 2016 on the file of the Court of Judicial Magistrate of First Class, Srikakulam. As rightly pointed out by the learned counsel for the

petitioner, it may not be possible for the petitioner, to travel from Srikakulam to Hyderabad, without the assistance of one of the male members of the family. Filing of M.C., also indicates the financial status of the petitioner. Invariably the respondent has to attend the Courts at Srikakulam in view of pendency of F.C.M.C. No.34 of 2017 and C.C.No.976 of 2016.

5. 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, Sumita Singh v. Kumar Sanjay² and Rachna Kanodia v. Anuk Kanodia³**, the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

6. 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 can be granted. The learned counsel for the respondent submitted that the presence of the respondent may be dispensed before the Family Court, Srikakulam on each and every date of adjournment.

7. Accordingly, the Transfer CMP is allowed. F.C.O.P. No.2002 of 2017 is withdrawn from the file of the Court of XVI Additional District Judge, Malkajgiri and transferred to the file of Family Court, Srikakulam, for disposal in accordance with law. The presence of the respondent before the Family Court, Srikakulam in F.C.O.P.No.2002 of 2017, on each and every date of adjournment, is dispensed with.

¹ 2013 (6) ALT 42 (SC)

² AIR 2002 SC 396

³ 2001 (7) Supreme 96

However, he shall appear before the Family Court, Srikakulam, as and when his presence is so required. Miscellaneous petitions, if any, pending in this transfer petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 23.8.2018
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