

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

I.A.No.1 of 2019 in I.A.No.1 of 2018

in

Transfer Civil Miscellaneous Petition No.771 of 2018

and

Transfer Civil Miscellaneous Petition No.771 of 2018

ORDER :

Heard both sides.

2. This Transfer Civil Miscellaneous Petition is filed under Section 24(1) of Civil Procedure Code, 1908 seeking transfer of F.C.O.P.No.36 of 2018 on the file of VII Additional District and Sessions Judge-cum-Family court, Sangareddy District at Sangareddy to the Court of the IX Additional District and Sessions Judge, Kamareddy, Kamareddy District, or to the Court of the Senior Civil Judge, Kamareddy, Kamareddy District.

3. The petitioner herein is wife of respondent.

4. The O.P. was filed by respondent against petitioner for dissolution of the marriage between them on the ground of cruelty and other grounds before the VII Additional District and Sessions Judge-cum-Family court, Sangareddy District at Sangareddy.

5. A male child was born to them in January, 2018.

6. The petitioner contended that on 15.03.2017 she was necked out by the respondent from the matrimonial home and that she is

residing with her parents at Bibipet, Kamareddy District. She contended that her place of residence is very far from Sangareddy and she is unable to travel to Sangareddy on every date of hearing along with the infant. She also alleged that there is a possibility of respondent threatening her to withdraw the civil and criminal cases initiated against him by her, and there is a possibility of influencing of witnesses or obstructing the witnesses from giving evidence in the Court. According to her, there is also a threat to her life if she attends to the Court at Sangareddy.

7. On 10.12.2018, this Court granted stay of all further proceedings in the Transfer Civil Miscellaneous Petition.

8. Counter-affidavit was filed initially on 05.10.2018, after hearing the counsel for respondent and after perusing the counter-affidavit filed by him.

I.A.No.1 of 2019:

9. Subsequently, I.A.No.1 of 2019 was filed to vacate the order dt.10.12.2018 passed in I.A.No.1 of 2018 passed in Transfer Civil Miscellaneous Petition No.771 of 2018.

10. It is the stand of respondent in the 1st counter that parents and brother of petitioner along with anti-social elements threatened him on 26.08.2018 and 07.10.2018 demanding money from him, and that the respondent had given a police complaint against parents and brother of petitioner. He also stated that petitioner's mother borrowed

Rs.23 lakhs from him and executed a promissory note, and that petitioner also filed a case under Section 498-A I.P.C. against him. He further stated that it takes only an hour's time for petitioner to come to Sangareddy and return from Sangareddy to Bibipet, Kamareddy District, and she need not appear except on the date of cross-examination. He alleged that it is her brother and father who are in-charge of all the litigations. He also stated that he was taking steps to get the criminal and M.C. and DVC cases transferred to some other court where it would be safer for him to appear and contest.

11. In the said counter filed in December, 2018, the respondent described himself as having employment in a private company but in the affidavit filed in support of I.A.No.1 of 2019 in I.A.No.1 of 2018 in Transfer Civil Miscellaneous Petition No.771 of 2018 he stated that he had no occupation. He also stated that he is unwell and is undergoing treatment at a Super Speciality Hospital by name, M/s. Sai Krishna Super Speciality Neuro Hospital Pvt. Ltd., at Hyderabad, where he has been diagnosed with problem in the lower back and was also advised to wear a Cervical Collar. He stated that he was unable to travel to Kamareddy Court for the above reason. He also alleged that there is a threat to his life.

12. The counsel for respective parties reiterated the stand taken by their clients.

13. The admitted facts are that the O.P. has been filed at Sangareddy Court, Sangareddy District, while the petitioner is staying at Bibipet, Kamareddy, Kamareddy District in the erstwhile of Nizamabad District. The distance between Kamareddy and Sangareddy is stated to be 90 Kms.

14. Since petitioner has to attend to the needs of infant and would have to carry the infant wherever she goes including the Court at Sangareddy, I find justification in the plea of petitioner that the F.C.O.P.No.36 of 2018 be transferred to the Court at Kamareddy which would be more convenient for her to attend.

15. As regards the health condition of respondent is concerned, it is admitted that respondent is a resident of Sangareddy Town which is 40 Kms. from Hyderabad City, and the Hospital, viz., M/s. Sai Krishna Super Speciality Neuro Hospital Pvt. Ltd. where he is said to be taking treatment, is located at Hyderabad. If the respondent is able to travel to Hyderabad to get treatment for himself, it would not be difficult for him to attend the Court at Kamareddy.

16. Both parties have leveled allegations of threats against each other. Therefore, the same cannot be taken into account because the truth of such allegations are to be considered by the Police before whom F.I.R.s have been registered by both the parties against each other and family members.

17. Accordingly, the Transfer Civil Miscellaneous Petition is allowed and F.C.O.P.No.36 of 2018 on the file of VII Additional District and Sessions Judge-cum-Family court, Sangareddy District at Sangareddy is transferred to the Court of the IX Additional District and Sessions Judge, Kamareddy, Kamareddy District.

18. Consequently, I.A.No.1 of 2019 which was filed to vacate the order dt.10.12.2018 passed in I.A.No.1 of 2018 passed in Transfer Civil Miscellaneous Petition No.771 of 2018, is dismissed.

19. No order as to costs.

20. As a sequel, miscellaneous petitions pending if any in this Transfer Civil Miscellaneous Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 26.06.2019

Ndr/*