

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.10 of 2020

ORDER:

This Transfer Civil Miscellaneous Petition, under Section 24 of the Code of Civil Procedure, 1908, is filed by the petitioner/wife, requesting to withdraw F.C.O.P.No.1438 of 2019 from the file of Family Court, Ranga Reddy District at L.B. Nagar, and transfer the same to the file of Family Court, Khammam, for trial and disposal, in accordance with law.

2. Heard the learned counsel for both sides and perused the record.

3. The learned counsel for the petitioner/wife would submit that the marriage between the petitioner/wife and the respondent/husband was performed on 08.05.2019 at Rama Upender Gardens Function Hall, Velikatte Village, Thorrur Mandal, Mahabubabad District. After the marriage, the couple lived happily for a period of fifteen days. Subsequently, the respondent/husband started harassing the petitioner/wife physically and mentally demanding additional dowry and necked out from her matrimonial house at the instigation of his family members. Left with no other alternative, the petitioner/wife went to the house of her maternal grandmother at Khammam and started living there. Subsequently, the respondent/husband has filed subject F.C.O.P.No.1438 of 2019 on the file of the Family Court, Ranga Reddy District at L.B. Nagar seeking restitution of conjugal rights. The distance between Khammam and Ranga Reddy District is about 295 kilometers. The

petitioner/wife is apprehending life threat at the hands of the respondent/husband and his family members. The petitioner/wife has no sufficient financial capability to attend the proceedings in the Court at Ranga Reddy District at L.B. Nagar. It is difficult for the petitioner/wife to travel about 295 kilometres from Khammam to Ranga Reddy District to attend the proceedings in the subject F.C.O.P., all alone, on each and every date of adjournment. Moreover, no inconvenience or hardship would be caused to the respondent/husband if the request of the petitioner/wife is considered and ultimately prayed to allow the Transfer Civil Miscellaneous Petition as prayed for.

4. On the other hand, the learned counsel for the respondent/husband would contend that there are no justifiable grounds to grant the relief sought by the petitioner/wife and ultimately prayed to dismiss the Transfer Civil Miscellaneous Petition.

5. In view of the above rival contentions, the point that arises for determination is:-

“Whether the request of the petitioner/wife to withdraw F.C.O.P.No.1438 of 2019 from the file of the Family Court, Ranga Reddy District at L.B. Nagar, and transfer the same to the Family Court, at Khammam, be acceded to?”

6. POINT: Here, it is apt to refer to the decision of the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh reported in Chejerla Srilakshmi

Vs. Chejerla Ramesh Babu¹, wherein, the erstwhile common High Court for the States of Telangana and Andhra Pradesh, relying on various decisions of the Hon'ble Apex Court, held as under:

“The Apex Court took note of inconvenience being caused to the parties but not the inconvenience to the wife alone, considering the facts and circumstances of the case advertent to the earlier judgment rendered in “Ram Gulam Pandit v. Umesh J. Prasad” and “Rajwinder Kaur v. Balwinder Singh” (as referred in the judgment) and opined that all the authorities are based on the facts of the respective cases and they do not lay down any particular law which operates as a precedent. Thereafter, it noted that taking advantage of the leniency shown to the ladies by this Court, number of transfer petitions are filed by women and, therefore, it is required to consider each petition on merit. Then, the Court dwell upon the fact situation and directed that the husband shall pay all travel and stay expenses to the wife and her companion for each and every occasion whenever she was required to attend the Court. From the aforesaid decision, it is quite vivid that the Court felt that the transfer petitions are to be considered on their own merits and not to be disposed of in a routine manner.”

7. In the instant case, the grounds putforth by the petitioner/wife for transfer of the subject FCOP filed by the respondent/husband is that she has no financial capability to attend the proceedings in the Court at Ranga Reddy District at L.B. Nagar on each and every date of adjournment and she is apprehending life threat at the hands of the respondent/husband and his family members.

8. If the petitioner/wife is facing financial difficulties, she can work out the remedies available under law to get the financial

¹ 2018 (4) ALD 162

assistance from the respondent/husband. Though it is contended that the petitioner/wife is having life threat, no single document or material is filed to substantiate the same. If the petitioner/wife cannot attend the proceedings in the Court at Ranga Reddy District on each and every date of hearing, she can prosecute the case through her advocate on record. While dealing with similar situations, this Court and the Hon'ble Apex Court were of the opinion that in a petition to transfer a case from one Court to another Court under the provisions of Hindu Marriage Act, 1955, it is the inconvenience of both the parties that is to be taken into consideration, but not the inconvenience of the wife alone and that transfer petitions are to be considered on their own merits and not to be disposed of in a routine manner. Normally this Court is inclined to allow the petitions for transfer, where there are genuine reasons/circumstances to transfer the case from one Court to another. Under these circumstances, this Court is of the view that the grounds raised by the petitioner/wife do not justify the relief sought by her in this petition. The Transfer Civil Miscellaneous Petition is devoid of merit and is liable to be dismissed.

9. In the result, the Transfer Civil Miscellaneous Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Transfer CMP, shall stand closed.

05th August, 2020
ssp

Dr. SHAMEEM AKTHER, J