

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND TWENTY**

**PRESENT
THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER**

TR.C.M.P. NO: 37 OF 2020

Between:

Dr.Aitha @ Bathula Swetha Rani, W/o Ramaiah

...PETITIONER

AND

Bathula Ramaiah, S/o Rajaiah.

...RESPONDENT

Petition Under Section 24 of the C.P.C. Praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to transfer the Original Petition with H.M.O.P.No.155 of 2019 before Senior Civil Judge, at Jagityal to the file of Principal Senior Civil Judge, at Karimnagar.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in H.M.O.P.No.155 of 2019 before Senior Civil Judge, at Jagityal pending disposal of the above Transfer Petition.

This petition coming on for hearing, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Sri G.Rajeshwar Reddy, Advocate for the petitioner and none appeared for the Respondent.

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Transfer Civil Miscellaneous Petition No.37 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 H.M.O.P.No.155 of 2019 from the file of the Senior Civil Judge's Court, Jagityal, and transfer the same to the file of the Principal Senior Civil Judge's Court, Karimnagar, for trial and disposal, in accordance with law.

2. Heard the learned counsel for the petitioner/wife and perused the record. In spite of service of notice on respondent/husband, there is no representation on his behalf.

3. The learned counsel for the petitioner/wife would submit that the marriage between the petitioner/wife and the respondent/husband was performed on 09.05.2018 at Karimnagar District. At the time of marriage, the parents of the petitioner/wife gave an amount of Rs.10 lakhs to the respondent/husband towards dowry. After the marriage, the couple lived happily for one month and thereafter some disputes arose between them. Subsequently, the respondent/husband started harassing the petitioner/wife physically and mentally demanding additional dowry, upon instigation of his family members. Several panchayats were held to resolve the disputes between the couple, but in vain. Finally, the petitioner/wife was necked out from her matrimonial house by the respondent/husband demanding additional dowry. Left with no other alternative, the petitioner/wife went to her parents house at

Karimnagar and started living there. Vexed with the attitude of the respondent/husband, the petitioner/wife lodged a report with the Women Police Station, Karimnagar District, against the respondent/husband and his family members, which was registered as Crime No.29 of 2019 for the offences punishable under Section 498-A of IPC and Section 4 of the Dowry Prohibition Act, 1961. As a counter-blast, the respondent/husband filed the subject H.M.O.P.No.155 of 2019 before the Senior Civil Judge's Court, Jagityal, under Section 9 of Hindu Marriage Act, seeking restitution of conjugal rights. The petitioner/wife is apprehending life threat in the hands of the respondent/husband. The distance between Karimnagar and Jagityal is about 50 kilometers. The petitioner/wife has to travel about 50 kilometres to go to Jagityal to defend the subject O.P. filed by the respondent/husband and as such, it is inconvenient for her to undertake the said travel. 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. In view of the above submissions, the point that arises for determination is:

"Whether the subject H.M.O.P.No.155 of 2019 pending on the file of Senior Civil Judge's Court, Jagityal, can be withdrawn and transferred to the file of the Principal Senior Civil Judge's Court, Karimnagar?"

5. **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 adverting 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."

6. In the instant case, the grounds putforth by the petitioner/wife for transfer of the subject HMOP No.155 of 2019 filed by the respondent/husband is that she is apprehending life threat in the hands of the respondent/husband and that it is inconvenient for her to travel about 50 kilometres from Karimnagar and Jagityal, to attend the proceedings in the subject H.M.O.P.

¹ 2018 (4) ALJ 162

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. As far as the facts and circumstances of the instant case are concerned, though it is contended that the petitioner/wife is having life threat in the hands of respondent/husband, no single document or material is filed to substantiate the same. Only an averment is made in the affidavit and that cannot be taken as true and correct. It is pertinent to state that the parameters governing to determine a criminal case registered for the offences under Sections 498-A of IPC and Section 4 of D.P Act is distinct from the subject H.M.O.P.No.155 of 2019 filed under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights. Both the cases are required to be tried and disposed of by different Courts. So also, the Courts before which the said cases are pending, have jurisdiction to entertain the subject matter of the said cases. There will be no conflict of decisions if the cases are determined by the Courts before which they are pending. Merely because it is inconvenient to the petitioner/wife to travel from Karimnagar to Jagityal to defend the subject H.M.O.P.No.155 of 2019, it cannot be a ground to transfer

the subject H.M.O.P. There are no other justifiable grounds in this petition. If the petitioner/wife cannot attend the proceedings in the subject H.M.O.P.No.155 of 2019 before the Court at Jagityal on each and every date of hearing, she can prosecute the case through her advocate on record. Under these circumstances, this Court is of the view that grounds raised by the petitioner/wife do not justify the relief sought by the petitioner/wife in this petition. The Transfer Civil Miscellaneous Petition is devoid of merit and is liable to be dismissed.

7. 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.

//TRUE COPY//

Sd/-K.AMMAJI
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. The Senior Civil Judge, Jagityal.
2. The Principal Senior Civil Judge, at Karimnagar.
3. One cc to Sri G.Rajeshwar Reddy, Advocate (OPUC)
4. Two CD Copies

Kj.

HIGH COURT

DATED:24/08/2020



ORDER

TRCMP.No.37 of 2020

Dismissing the Tr.CMP no costs.

5
[Signature]
31/8/2020