

THE HON'BLE SRI JUSTICE BANDARU SYAMSUNDER

TRANSFER CIVIL MISCELLANEOUS PETITION

NO.46 OF 2023

ORDER:

I have heard learned counsel for the petitioner, Mr. P. Raj Kumar, as well as the learned counsel for the respondent, Smt. K.S.G. Padmavathi.

2. This Transfer Civil Miscellaneous Petition is filed by the petitioner/wife under Section 24 of Code of Civil Procedure (in short 'CPC') seeking transfer of H.M.O.P.No.95 of 2022 on the file of Senior Civil Judge Court, Tekkali of Srikakulam District to the Principal Family Court, Visakhapatnam.

3. The main contention of the petitioner is that her marriage with the respondent was solemnized on 21.06.2013 as per Hindu rites and customs prevailing in their community in a temple at Visakhapatnam and thereafter they both lead marital life and blessed with two children, one child born in the year 2004 and another child born in the year 2008 respectively, who are now under care and custody of the petitioner/wife. The main contention of the petitioner is that due to harassment which she

said to be meted out in the hands of the respondent and his relatives, she lodged a report before Station House Officer, New Port Police Station, Visakhapatnam who registered the case for the offences punishable under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act, wherein the investigation was completed and charge sheet was filed and taken on file as C.C.No.450 of 2020. The petitioner submits that as she filed criminal case against the respondent and his relatives, the respondent has chosen to file H.M.O.P.No.95 of 2022 before Senior Civil Judge Court, Tekkali for divorce with false grounds, which is 168 KM from Visakhapatnam. It is also the contention of the petitioner that the respondent and his relatives are pressurising and threatening her to agree for divorce and it is difficult for her to travel all the way from Visakhapatnam to Tekkali to put forth her defence. She prays to allow the petition.

4. The learned counsel for the petitioner would submit that as the petitioner filed report against the respondent, he has chosen to file divorce petition with false grounds before Senior Civil Judge Court, Tekkali, which is at a distance of 168 KM. He would further submit that the respondent and his relatives are attending the Courts at Visakhapatnam, it may not be difficult for respondent to

attend the Family Court, if his divorce petition is transferred to Family Court, Visakhapatnam.

5. The learned counsel for the respondent would submit that when the respondent attended the Court at Visakhapatnam he was threatened by the petitioner and her relatives where respondent is having threat to his life. She would further submit that divorce petition filed by the respondent may be transferred to Family Court, Srikakulam.

6. Admittedly, now the petitioner is residing in her parents' house at Visakhapatnam along with her minor children where she already lodged a report before S.H.O., wherein the respondent and his relatives are attending before the Courts at Visakhapatnam. It is not in dispute that the distance between Visakhapatnam City to Tekkali Town is about 168 KM and the respondent has chosen to file divorce petition, after petitioner lodged a report before Station House Officer, New Port Police Station, Visakhapatnam, though the marriage between the couple was solemnized at Visakhapatnam and now petitioner/wife is residing at Visakhapatnam City. After considering the fact that the petitioner being a woman having two minor children already lodged a report before Station House

Officer, New Port Police Station, Visakhapatnam wherein the respondent and his relatives are attending the Court at Visakhapatnam, this Court is of an opinion that there are grounds to consider the request of the petitioner to transfer divorce petition filed by the respondent from Senior Civil Judge Court, Tekkali to Principal Family Court, Visakhapatnam.

7. In the result, this transfer civil miscellaneous petition is allowed. The H.M.O.P.No.95 of 2022 on the file of Senior Civil Judge Court, Tekkali is hereby withdrawn and transferred to Principal Family Court, Visakhapatnam. The learned Senior Civil Judge, Tekkali shall transmit the case records in H.M.O.P.No.95 of 2022 duly indexed as expeditiously as possible to Principal Family Court, Visakhapatnam within two (02) weeks from the date of receipt of orders of this Court in the present petition.

Both parties shall attend before Principal Family Court, Visakhapatnam on 12.08.2023 at 10.30 AM. No order as to costs.

Consequently, miscellaneous petitions, if any, shall stand closed. The interim stay granted if any, shall stand vacated.

JUSTICE BANDARU SYAMSUNDER

Date: 26.06.2023
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