

HON'BLE SRI JUSTICE BANDARU SYAMSUNDER

Transfer C.M.P.No.144 of 2023

ORDER:

I have heard learned counsel for the petitioner Mr.P.Srinivas, as well as learned counsel Ms.B.Pujitha, representing on behalf of Mr.Venkata Durga Rao Anantha, learned counsel for the respondent. Report received from Principal District Judge, Visakhapatnam, that conciliation conducted between the parties, failed.

2. This is wife's Petition under Section 24 of Code of Civil Procedure(in short 'CPC') seeking transfer of F.C.O.P.No.687 of 2020 from the file of Family Court-cum-Additional District Court, Visakhapatnam, to Family Court, Guntur, where F.C.O.P.No.309 of 2023 filed by the petitioner under Section 125 Cr.P.C. is pending on the ground that she filed maintenance case against the respondent before Family Court, Guntur, as she has to travel from Hyderabad to Guntur to attend before Family Court, Guntur, and for the petition filed by the respondent at Visakhapatnam he has to visit Visakhapatnam along with his father as she has no other male support, whereas respondent is working at Hyderabad, he also has to come from Hyderabad to attend the court proceedings at Visakhapatnam and asking her to live with his mother and family members at Visakhapatnam. It is also the contention of the petitioner that she has got threat to her life if she visits the

Courts at Visakhapatnam and respondent has no intention to continue marital life, but filed petition for restitution of conjugal rights with false grounds. She prays to allow the petition.

3. The learned counsel for the petitioner would submit that petitioner though working at Hyderabad as her parents are staying at Guntur, where she filed petition under Section 125 Cr.P.C. claiming maintenance from the respondent and she also lodged a report against the respondent and his family members on 11.07.2020 for the offences punishable under Sections 498-A, 324 and 506 IPC and Sections 3 and 4 of Dowry Prohibition Act, wherein police after due investigation filed charge sheet vide C.C.No.4579 of 2021 on the file of IV Additional Junior Civil Judge Court, Guntur. He would further submit that in the said two cases respondent has to appear to put forth his defence, if any, due to that, even if F.C.O.P.No.687 of 2020 on the file of Family Court, Visakhapatnam, is transferred, no prejudice would be caused to the respondent. He prays to allow the petition.

4. The learned counsel representing the respondent would submit that though respondent's work place is at Hyderabad, now he is staying at Visakhapatnam, in his parents' house by opting work from home mode, due to that it would be difficult for him to attend the Court at Guntur, if request of the petitioner to transfer the restitution of

conjugal rights petition filed by him is considered. She prays to dismiss the petition.

5. Admittedly, the marriage of the petitioner with respondent solemnized on 29.01.2017 at Guntur as per rites and customs prevailing in their community. After the marriage, couple said to be resided at Chennai and thereafter at Hyderabad and then during COVID period, both said to be resided at Visakhapatnam, in the parents' house of the respondent. It is also not in dispute that now the petitioner is working at Hyderabad, whereas the respondent is said to be staying at Visakhapatnam though his work place is at Hyderabad by opting work from home mode. The fact remains is that in C.C.No.4579 of 2021 and F.C.O.P.No.309 of 2023 which are pending before the Courts at Guntur, respondent has to appear to put forth his defence, if any. The contention of both parties in F.C.O.P.No.687 of 2020 and F.C.O.P.No.309 of 2023 are similar, due to that, it is desirable to dispose of both the cases by the same Court to avoid conflicting judgments if any. After considering the fact that the petitioner is working at Hyderabad and filed cases at Guntur, wherein the respondent has to appear, this Court is of an opinion that there are grounds to consider the request of the petitioner to transfer the petition filed by the respondent for restitution of conjugal rights to Family Court, Guntur.

6. In the result, this Transfer Civil Miscellaneous Petition is allowed. F.C.O.P.No.687 of 2020 on the file of Additional Family Court, Visakhapatnam, is hereby withdrawn and transferred to Family Court, Guntur, to try along with F.C.O.P.No.309 of 2023. The learned Judge, Additional Family Court, Visakhapatnam, shall transmit the case records in F.C.O.P.No.687 of 2020 after duly indexed to the Family Court, Guntur, as expeditiously as possible, preferably within two weeks from the date of receipt of orders of this Court in this petition. The learned Judge, Family Court, Guntur, shall not insist physical presence of the respondent for each and every adjournment, if he engages a counsel. The learned Judge can insist for his presence whenever it is required or at the time of recording his evidence before the Court. Both parties shall appear before the Family Court, Guntur, on 10.02.2024 at 10.30 a.m. No order as to costs. Consequently, miscellaneous petitions if any, shall stand closed. Interim Stay granted if any, shall stand vacated.

BANDARU SYAMSUNDER, J

Dt:04.01.2024.

Rns



HON'BLE SRI JUSTICE BANDARU SYA MSUNDER

Tr.C.M.P.No.144 of 2023

Date: 04.01.2024

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