

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE : CHITTOOR

Present: **A.V.RAVINDRA BABU,**
Principal District Judge, Chittoor.

Thursday, the Fifth (5th) day of December, 2019

Transfer O.P.No.20/2019

Between:

N.Sumana .. Petitioner

And:

V.Satish Kumar .. Respondent

...

This petition is coming on 22-11-2019 before me for final hearing, in the presence of Sri K.Murali, Advocate for petitioner and of Sri G.Sambasivudu, Advocate for respondent and upon hearing both sides, and upon perusing the material papers available on record, and the matter having stood over for consideration till this day, this Court made the following:

ORDER

This is a petition filed on behalf of the petitioner under Sec.24 of the Civil Procedure Code, with a prayer to transfer D.O.P.18/2018 on the file of Senior Civil Judge, Puttur and transfer the same to the Court of Principal Senior Civil Judge or Additional Senior Civil Judge, Tirupati, Chittoor district.

2. The case of the petitioner as set out in the petition in brief is that the petitioner and the respondent are wife and husband and their marriage was performed as per the Hindu rites and customs on 11-12-2011 at T.T.D. Kalyanamandapam, Puttur, Chittoor district. At the time of marriage, the petitioner's parents presented Rs.1,00,000/- to her in-laws and Rs. 20,000/- to her sister-in-law, one watch, gold ring, bracelet, gold chain to the respondent and Rs.50,000/- for household purpose and spent Rs.2,00,000/- towards marriage expenditure.

After one year of the petitioner's marriage, the respondent his parents and his sister said that if they agreed another marriage proposal for

respondent, they will get more than ten lakhs as dowry and instructed the petitioner to ask the petitioner's parents to get Rs.3,00,000/- to purchase second hand driving cars for the purpose of driving school but the petitioner's parents explained their financial status and requested the respondent and his parents to fulfill their demands in future. On 3-3-2017, respondent, his parents and sister necked the petitioner from their house and asked her to bring Rs.5,00,000/- from her parents. Petitioner informed to her parents and gave complaint to Mahila police station, Tirupati. They gave counseling so many times but respondent and his parents did not turn up. On 22-10-2017 the petitioner's husband and his parents again came to her parents house situated at Janardhan Colony, Tirupati, warned the petitioner that there is no use for police cases, bring additional dowry to lead happy married life. As there is no other option, petitioner gave a complaint in Mahila police station, Tirupati. It was registered as Crime No.43 of 2017 under Sec.498-A of I.P.C., and Secs. 3 and 4 of Dowry Prohibition Act. Later, crime No.43 of 2017 converted into CC.73 of 2018 and same is pending before IV ADM Court, Tirupati.

Making false allegations, the respondent also filed DOPNo.18 of 2018 on the file of Senior Civil Judge's Court, Puttur against the petitioner under Sec.13 (1) (ia) of Hindu Marriage Act. Respondent filed the above case with an intention to harass the petitioner. Petitioner is residing at Tirupati at her parents' house. Recently the petitioner's father was expired in June, 2018 and without having any male support, it is very difficult to the petitioner to travel all the way to Puttur, whenever the case is posted. The above O.P., is posted for hearing.

The petitioner is filing the present application seeking to withdraw D.O.P.18/2018 pending on the file of Senior Civil Judge's Court, Puttur and to transfer the same to Principal Senior Civil Judge's Court or Additional Senior Civil Judge's Court, Tirupati, to enable the petitioner to attend the case and to

conduct the trial along with C.C.No.73 of 2018 at Tirupati. The Hon'ble Apex Court held that between the husband and wife, the convenience of the wife must prevail in the case of Sangeetha @ shreya V Prasanth Vijay Wargiya reported in 2004 (13) SCC 407. The Hon'ble Apex Court also observed that in view of the Amended Provision of Sec.19 of Hindu Marriage Act, 1955, Clause (iiia) was inserted reserving the liberty to the wife to file a petition under the Act before the Court within the local limits of whose ordinary original civil jurisdiction she is residing. Therefore, as per the observations of the Hon'ble Apex Court convenience of the wife as to be taken into consideration. Hence, the petition.

3. Respondent got filed a counter, denying the averments in the petition and resisting the prayer on the ground that five years after the petitioner left from the matrimonial house, she lodged a false complaint and that Tirupati is at a distance of 40 k.ms., from Puttur and there are availability of buses from Tirupati to Puttur for every 15 minutes and only to harass the respondent, petitioner filed this petition.

4. No oral or documentary evidence has been adduced on behalf of either sides.

5. Now, in deciding the petition, the point that arises for consideration is:
Whether the petitioner is entitled to the relief prayed?

6. **POINT:** Both the counsels argued according to the pleadings.

7. There is no dispute that the respondent herein in the capacity of the petitioner laid D.O.P.18/2018 before Senior Civil Judge's Court, Puttur. In the said petition, the respondent herein as 'petitioner' shown his address at Puttur and shown the address of the respondent therein at Tirupati. It is not

a case where any connected matters are pending before Senior Civil Judges Courts at Tirupati.

8. Learned counsel for the petitioner sought to support the case of the petitioner by relying upon a decision in 2009 (4) ALT 23 and contended that it is for the convenience of the respondent in D.O.P., the Court has to transfer the said case to the Court of Senior Civil Judge at Tirupati. This Court has gone through the above said decision. It is a case where the Hon'ble High Court considered the distance between Hyderabad and Vijayawada. Now, there is no dispute that Puttur is located hardly below 40 k.ms., from Tirupati. Simply because 498(A) I.P.C., case is pending at Tirupati, which is at the instance of petitioner herein, D.O.P.18/2018 from the file of Senior Civil Judge, Puttur, cannot be transferred to the Senior Civil Judge's Courts at Tirupati. Considering the fact that the distance is less than 40 k.ms., between Tirupati and Puttur and as there are no matrimonial cases, especially before Civil Courts pending instituted by the petitioner herein, I do not find any tenable reasons to effect transfer. The facts and circumstances in the decision in 2009 (4) ALT 23 obviously stood in different footing. It is not a case where the distance between Tirupati and Puttur is far away. The contention of the respondent that there are buses between Tirupati and Puttur for every 5 minutes is not dispute. Hence, I do not find any tenable reason to withdraw D.O.P.18/2018 from the Court of Senior Civil Judge, Puttur and transfer the same to the Senior Civil Judge's Courts at Tirupati. The point is answered accordingly.

9. In the result, the petition is dismissed but under the circumstances without costs.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in open court, this the 5th day of December, 2019.

**Principal District Judge,
Chittoor.**

Copy to:

The Senior Civil Judge, Puttur

