

# **SUPREME COURT OF INDIA**

Eluri Raji Reddy

Vs.

State of Delhi with Eluri Raji Reddy

Transfer Petitions (Crl.) No. 32 of 2003

(Ashok Bhan and R. C. Lahoti JJ.)

13.04.2004

## **JUDGMENT**

1. Transfer Petition (Criminal) No. 32 of 2003 has been filed by the petitioner husband and his parents for transfer of a case pending in the Court of Shri Suresh Kumar Gupta, Metropolitan Magistrate, New Delhi titled State of Delhi v. Eluri Raji Reddy arising out of FIR No. 385 of 2000, Parliament Street Police Station, to a competent court in Hazurabad, Karimnagar district, Andhra Pradesh.

2. Transfer Petition (Criminal) No. 122 of 2003 has also been filed by the petitioner husband for transfer of a petition under Section 125 Cr. P.C. for grant of maintenance filed by the respondent wife pending in the Court of Metropolitan Magistrate, Patiala House, New Delhi titled Eluri Manemma v. Eluri Raji Reddy in CC No. 75 of 2000 to a competent court in Hazurabad, Karimnagar district, Andhra Pradesh.

3. Transfer Petition (Civil) No. 342 of 2003 has been filed by the wife for transfer of the matrimonial case being OP No. 46 of 2000 filed by the husband in the Court of Senior Civil Judge, Hazurabad, Andhra Pradesh titled Eluri Raji Reddy v. Eluri Manemma @ Mani under Section 13(1)(i-a) of the Hindu Marriage Act for dissolution of the marriage to the Family Court at Delhi/New Delhi. All these petitions shall be disposed of by this common order.

4. The facts are taken from Transfer Petition (Criminal) No. 32 of 2003. Marriage between the parties was solemnized on 10-2-1989 at Village Katkur, Bhima Devarapalli mandal, Karimnagar district, Andhra Pradesh according to Hindu rites and customs. After the marriage the parties resided in their matrimonial home at Bommakal village till 1995. Thereafter, the wife left the husband and started living with her parents in Village Katkur, Karimnagar district, Andhra Pradesh. The husband filed a petition for divorce under Section 13(1)(i-a) of the Hindu Marriage Act in the Court of Senior Civil Judge, Hazurabad, Andhra Pradesh.

5. Wife lodged FIR No. 385 of 2000 in Parliament Street Police Station, New Delhi on 7-12-2000 against the husband, his father aged 75 years and his mother aged 65 years. All three

were arrested and brought to Delhi and were kept in custody. After their release on bail they returned to their native place. Wife also filed a petition under Section 125 Cr. P.C. claiming maintenance of Rs. 5000 per month in the Court of Metropolitan Magistrate, Patiala House, New Delhi, which is still pending.

6. Aggrieved against the action of the wife, the husband and his parents have filed the petitions alleging that they have been unduly harassed. Cause of action did not arise at New Delhi. The respondent wife is living with her parents at Village Katkur, Karimnagar district, Andhra Pradesh and the two cases have been filed against them at New Delhi on the false pretext that she is presently living with her brother at New Delhi. It has been admitted by the respondent wife that her parents are living in Andhra Pradesh and she owns a house in Andhra Pradesh. She has denied that the criminal case and the maintenance petition filed by her at New Delhi were to harass her husband or his parents. She has asserted that the courts at New Delhi have the jurisdiction. She having shifted to New Delhi, it would be convenient for her to pursue the cases at the place where she resides. She has also prayed for the transfer of divorce petition as well, filed by her husband, to a court of competent jurisdiction at New Delhi.

7. Having heard learned counsel for the parties, but without, expressing any opinion on the allegations and counter-allegations made against one another, which are sub-judice in the main proceedings, we are of the opinion that it will be for better convenience of the parties and in the interest of justice if both the cases pending in the Court of Metropolitan Magistrate, New Delhi titled State of Delhi v. Eluri Raji Reddy arising in FIR No. 385 of 2000, Parliament Street Police Station and petition under Section 125 CrPC for grant of maintenance filed by the respondent wife pending in the Court of Metropolitan Magistrate, Patiala House, New Delhi titled Eluri Manemma v. Eluri Raji Reddy in CC No. 75 of 2000 are transferred to a court of competent jurisdiction at Hazurabad, Karimnagar district, Andhra Pradesh. Accordingly, the transfer petitions filed by the husband are allowed. Since we are transferring both the cases filed by the wife, pending at New Delhi, to a court of competent jurisdiction at Hazurabad, Karimnagar district, Andhra Pradesh, Transfer petition (Civil) No. 342 of 2003 filed by her is dismissed. It is directed that both the abovementioned cases pending in the Court of Metropolitan Magistrate, New Delhi shall stand transferred to the Court of District and Sessions Judge, Karimnagar District, Andhra Pradesh.

8. The District and Sessions Judge at Delhi shall, soon on communication of this order, transfer the record of the above-referred two cases to the Court of District and Sessions Judge, Karimnagar District, Andhra Pradesh who may try the petition himself or make over the same for hearing and disposal in accordance with law to a court of competent jurisdiction subordinate to him.

9. The parties through their respective counsel are directed to appear before the Court of District and Sessions Judge, Karimnagar District, Andhra Pradesh on 10-6-2004.

No order as to costs.