

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

Tr.P(Crl.).No. 4 of 2015

IN M.C NO.203/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
CHITTUR

PETITIONER/RESPONDENT:

P.GOPINATHAN, AGED 45 YEARS,
S/O.SANKARAN NAIR, RESIDING AT "PARVATHI VIJAYAM"
THIRUVILWAMALA, THRISSUR DISTRICT.

BY ADV. SRI.MANSOOR.B.H.

RESPONDENTS/PETITIONER & STATE:

1. D.VIJAYALAKSHMI, AGED 42 YEARS,
W/O.GOPINATHAN, TEMPORARILY, RESIDING AT NARAYANLAYAM,
PANANNGATTIRI P.O., ELAVANCHERI VILLAGE,
CHITTUR TALUK.

2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

R2 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 24-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Tr.P(Crl.).No. 4 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: COPY OF THE PETITION FILED BY THE RESPONDENT BEFORE
THE J.F.C.M COURT, CHITTUR

ANNEXURE B: COPY OF THE ANGIOGRAM REPORT OF VALLUVANAD HOSPITAL
COMPLEX DATED 16.12.2013

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Tr.P(Crl No.4 of 2015

Dated this the 24th day of February, 2015

O R D E R

The petitioner herein is the husband of the 1st respondent, who has brought a petition against him before the Judicial First Class Magistrate Court, Chittur under Section 12 of the Protection of Women From Domestic Violence Act, 2005. The petitioner seeks orders transferring the said proceeding from the Chittur Court to the Judicial First Class Magistrate Court, Vadakkancherry in Thrissur District. The petitioner is a resident of Thiruvillwamala in Thrissur District. The petitioner seeks transfer on two grounds. One is that the parties in fact resided as husband and wife at Thiruvillwamala within the jurisdiction of the Court at Vadakkancherry, and the other is that the petitioner is not in a position to travel long distance to appear in the Court at Chittur. He has also produced copy of a discharge certificate showing his ailments. Of course this document by itself is not satisfactory at all and, on the said ground transfer cannot be granted. However I find some force in the first ground urged by the petitioner.

2. Annexure A1 copy of the petition filed by the first respondent under Section 12 of the Protection of Women From Domestic Violence Act shows that the marriage was solemnized at Thiruvillwamala, and till separation they resided in the matrimonial home at Thiruvillwamala. Thus the shared house hold is at Thiruvillwamala, and practically the protection sought by the first respondent is also within the limits of the Court at Vadakkancherry. The petition shows that she is temporarily residing at Elavancheri in Chittur Taluk. Of course it is true that temporary address also can be considered in deciding jurisdiction under Section 27 of the Protection of Women From Domestic Violence Act. But here I find that till the filing of the proceeding, the parties in fact resided at Thiruvillwamala. The petition shows that the witness cited in the complaint is also a resident of Thiruvillwamala. The witness is none other than the respondent's daughter. I find reason to believe the petitioner's case that the respondent is in fact a resident of Thiruvillwamala, and it appears that with some ulterior object she brought the proceeding at Chittur. In spite of notice she remained absent in this proceeding, and she did not turn up to contest this application for transfer. I am inclined to

allow the petition, and transfer the case as requested.

In the result, this Transfer Petition is allowed. M.C No.203/2014 now pending before the Judicial First Class Magistrate Court, Chittur in Palakkad District will stand transferred to the Judicial First Class Magistrate Court at Vadakkancherry in Thrissur District. The learned Magistrate Chittur will transmit the records to the other court without delay. Notice for appearance shall be given to the parties from the Judicial First Class Magistrate Court, Vadakkancherry.

**P.UBAID
JUDGE**

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