

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2015

CORAM

The Hon'ble Mr.Justice D.Hariparanthaman

Tr. C.M.PNo.620 of 2015

and

M.P.No.1 of 2015

Sujatha

... Petitioner

Vs.

D.Mahendran

... Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., with a prayer to withdraw H.M.O.P.No.97 of 2015 from the file of the Principal Sub Court, Krishnagiri and to transfer the same to Family Court, Salem.

For Petitioner : Mr.S.P.Yuaraj

For Respondent : Mr.M.Arokiayaraj

ORDER

The petitioner herein is the wife and the respondent is the husband. The respondent/husband filed H.M.O.P.No.97 of 2015 on the file of the Principal Sub Court, Krishnagiri, for divorce. Now, the petitioner has filed the present Petition to transfer the said case to Family Court, Salem.

2. The learned counsel appearing for the petitioner submitted that the petitioner/wife is residing at Salem, and there is no other person to render assistance in conducting the case, at Krishnagiri District, where the respondent/husband has filed the Petition for divorce. The learned counsel further submitted that, when the petitioner went to Krishnagiri, to the attend hearing of the case, she was threatened by the respondent and his men not to attend the Court, and hence, the petitioner apprehends danger to her life, if the Divorce Petition is tried at Krishnagiri. Therefore, the learned counsel submitted that the case filed by the respondent/husband may be transferred to Family Court, Salem.

3. The learned counsel appearing for the respondent has drawn the attention of this Court to the counter affidavit filed by the respondent, wherein, it is stated that the petitioner, at the instigation of her uncle, has lodged a criminal complaint against the respondent and his family members, and though the said complaint was taken cognizance by the learned Judicial Magistrate No.I, Krishnagiri, and was assigned C.C.No.33 of 2011, the said Calendar Case ended in acquittal. The learned counsel, therefore, submitted that the allegations made against the respondent are rank false, and relying on the same, the Divorce Petition need not be transferred.

4. This Court is not impressed upon the submission made by the learned counsel for the respondent. Admittedly, the petitioner/wife is residing at Salem, and as per Section 19(iii) (a) of the Hindu Marriage Act, H.M.O.P. can be tried at the place, where, the wife resides. Further, the Hon'ble Supreme Court time and again held that, in matrimonial matters, the convenience of the wife has to be taken into consideration, while ordering transfer. Therefore, I am of the firm view that H.M.O.P.No.97 of 2015 filed by the husband/respondent has to be transferred to the file of Family Court, Salem.

5. In the result, the Transfer Civil Miscellaneous Petition is allowed, and the Divorce Petition, viz H.M.O.P.No.97 of 2015, pending on the Principal Sub Court, Krishnagiri, is directed to be transferred to the Family Court, Salem. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sd

To

1) The Principal Sub Court, Krishnagiri.

2) The Family Court, Salem.

+1 cc to Mr.SP.Yuvaraj Advocate sr.55877

+1 cc to Mr.M.Sathish Kumar Advocates sr.55740

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