

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP No.9066 of 2015

and

M.P. No.1 of 2015

Ashok Kumar @ Ashok

...Petitioner

Vs

Parameshwari

...Respondent

Prayer : Criminal Original Petition filed under Section 407 Cr.P.C., to withdraw and transfer M.C. No.4 of 2014 on the file of the Judicial Magistrate No.I, Pollachi to joint trial with H.M.O.P. No.70 of 2014 on the file of the Family Court, Coimbatore.

For Petitioner : Mr.P.Srinivas

ORDER

Seeking a direction to withdraw and transfer M.C. No.4 of 2014 from the file the learned Judicial Magistrate No.I, Pollachi to joint trial with H.M.O.P. No.70 of 2014 on the file of the Family Court, Coimbatore, the petitioner has come up with this petition.

2. Heard the learned counsel for the petitioner.

3.It is seen that the respondent/wife has filed a petition under Section 125 Cr.P.C. against the petitioner/husband which is pending on the file of the learned Judicial Magistrate-I, Pollachi. The learned counsel for the petitioner submitted that petitioner/husband also filed HMOP proceedings in H.M.O.P.No.70 of 2014 pending on the file of the Family Court, Coimbatore. This Court is of the view that proceedings in H.M.O.P.No.70 of 2014 has been filed for divorce. It is also seen that respondent/wife also filed a petition under Section 9 of Hindu Marriage Act, for restitution of Conjugal rights before the Sub Court, Pollachi. Admittedly, after exchange of notice, since there was no progress in their cases, respondent/wife approached the Judicial Magistrate

Court-I, Pollachi by way of filing petition under Section 125 of Cr.P.C. for maintenance and therefore, the wife, who is unable to maintain herself cannot be compelled to come to the Family Court, Coimbatore as desired by the petitioner/husband as she is living in Pollachi. Therefore, in the considered opinion of this Court, this is not a fit case to transfer the cases filed by the respondent/wife pending in Pollachi Courts to the Family Court, Coimbatore, especially, when no interim maintenance has been awarded in favour of the wife. Hence, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I,
Pollachi

2.The Family Court,
Coimbatore.

1 CC to Mr.P.Srinivas, Advocate SR.No. 19937

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SK (CO)

PSI (21.04.2015)

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