



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2015

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

CrI.O.P. (MD) No.12703 of 2015
and
Tr.C.M.P. (MD) .No.194 of 2015

In CrI.O.P. (MD) .No.12703 of 2015:

P.Saravanan ... Petitioner

Vs.

1.C.Karpagavalli

2.Minor S.Oviya,
represented by her mother
C.Karpagavalli

...Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, praying to withdraw the above case in M.C.No.16 of 2015 from the file of the learned Judicial Magistrate, Sivakasi and transfer the same to any other competent court at Madurai.

For Petitioner : Mr.B.Rooban

For Respondents : Mr.S.M.Anantha Murugan

In Tr.C.M.P. (MD) .No.194 of 2015:

C.Karpagavalli ... Petitioner

Vs.

P.Saravanan ...Respondent

Prayer: This Transfer CMP is filed under Section 24 of Code of Civil Procedure, praying to withdraw the H.M.O.P.No.455 of 2014 on the file of the learned Subordinate Judge, Melur and transfer the same to the learned Subordinate Judge, Sivakasi for trial.

For Petitioner :Mr.S.M.Anantha Murugan

For Respondents :Mr.B.Rooban

C O M M O N O R D E R

<https://hcservices.ecourts.gov.in/hcservices/>
seeking transfer of M.C.No.16 of 2015 pending on the file of the learned Judicial Magistrate, Sivakasi, CrI.O.P. (MD) .No.12703 of 2015 has been filed by the husband/petitioner.



2. Seeking transfer of H.M.O.P.No.455 of 2014 pending before the learned Sub Judge, Melur to the file of the learned Sub Judge, Sivakasi, the Tr.C.M.P(MD).194 of 2015 has been filed by the petitioner/wife.

3. H.M.O.P.No.455 of 2014 has been filed by the husband for restitution of conjugal rights. M.C.No.16 of 2015 has been filed by the wife seeking maintenance.

4. As the parties in the above Tr.C.M.P.No195 of 2015 and CrI.O.P.(MD).No.12703 of 2015 are one and the same this court is inclined to pass a common order.

5. The learned counsel for the petitioner in CrI.O.P.(MD).No.12703 of 2015 submitted that there is a life threat to the petitioner/husband from the respondent/wife and her family members and therefore M.C.No.16 of 2015 pending on the file of the learned Judicial Magistrate, Sivakasi, is required to be transferred.

6. While denying the same, the learned counsel for the petitioner/wife in Tr.C.M.P.No.194 of 2015 submitted that as the petitioner/wife is residing at Sivakasi with her minor daughter, M.C.No.16 of 2015 is pending before the learned Judicial Magistrate, Sivakasi may not be transferred and further, the petitioner/wife seeks transfer of the said H.M.O.P.No.455 of 2015 pending on the file of the learned Sub Judge, Melur, to the file of the learned Sub Judge, Sivakasi.

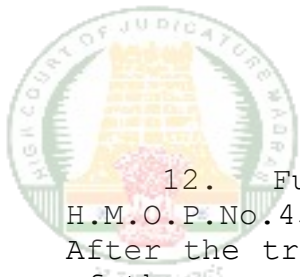
7. So far as the alleged threat is concerned, no material has been produced by the husband to substantiate the same. The mere allegation per se is not sufficient. If the petitioner is actually facing any threat, it is well open to him to approach the jurisdictional police. As and when it is done, the jurisdictional police shall look into the same and take appropriate steps to give police protection to the petitioner/husband.

8. In the light of the law settled insofar as the conduct of all matrimonial cases are concerned, the convenience of the wife is the paramount consideration. Considering the same, this court is inclined to allow the Tr.C.M.P.(MD)No.194 of 2015 and dismiss CrI.O.P.(MD).12703 of 2015.

9. Accordingly, this court is inclined to issue a direction to the learned Sub Judge, Melur to transfer H.M.O.P.No.455 of 2014 to the file of the learned Sub Judge, Sivakasi.

10. The learned counsel appearing for the respondent/husband submitted that the appearance of the respondent is not at all required for all the hearing in M.C.No.16 of 2015. By considering the said submission of the learned counsel for the respondent/husband, the appearance of the respondent in M.C.No.16 of 2015 is dispensed with until and unless the same is required by the court concerned.

11. Accordingly, CrI.O.P.(MD).12703 of 2015 is dismissed with a direction to the learned Judicial Magistrate, Sivakasi, to dispose of M.C.No.16 of 2015 within six months from the date of receipt of a copy of this order.



12. Further, the learned Sub Judge, Melur is directed to transfer H.M.O.P.No.455 of 2014 to the file of the learned Sub Judge, Sivakasi. After the transfer, the learned Sub Judge, Sivakasi is directed to dispose of the same within a period of six months from the date of transferring.

13. Accordingly, these two cases are ordered.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Sub Judge, Melur.

2. The Sub Judge, Sivakasi.

3. The Judicial Magistrate, Sivakasi.

+2cc to M/S. B.Rooban, Advocate in SR.No 43681 & 43682

+2cc to M/S.S.M.Ananthamurugan, Advocate in SR.No 43111

TS/22.08.2015/3P - 8C AMF/

Cr1.O.P. (MD) No.12703 of 2015
and
Tr.C.M.P. (MD) .No.194 of 2015

31.07.2015