

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2016

CORAM:

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.1292 of 2016

and

Crl.M.P.Nos.576 and 577 of 2016

SABEEK REHMAN @ SABEEKUR

.. Petitioner

Versus

1 HALEEMA BANU

2 MINOR RENUSHA SANOFUR FATHIMA

REP. BY HER NEXT FRIEND GUARDIAN - MOTHER

HALEEMA BANU

.. Respondents

Petition filed under Section 482 Cr.P.C to withdraw M.C.No.52 of 2015 pending on the file of the Family Court at Salem and transfer the same to the file of Family Court at Dindigul.

For Petitioner : Mr.Richardson Wilson

For Respondents : Mr. K.S.Jeyaganeshan

O R D E R

Heard both sides.

2. The petitioner/husband has come forward with this Petition to withdraw M.C.No.52 of 2015 pending on the file of the Family Court at Salem and transfer the same to the file of Family Court at Dindigul, stating that the wife filed a petition under Section 125 Cr.P.C claiming maintenance for her and minor child, who was born on 27.07.2006. The respondent along with her child is residing at Salem. Now the husband filed this petition stating that he is facing life threat. The learned counsel for the petitioner drawn the attention of this Court to paragraph-5 of the affidavit filed in support of this petition, which reads as follows:-

' 'Later the first respondent's brother came to my place of business on 15.06.2014 at Karim Nagar, Telangana at about 7.45 p.m along with

few henchmen and brutally assaulted me. He tied up my hands and gagged me and proceeded to beat me along with henchmen with wooden rods and iron rods.''

The petitioner stated that his life will be put under threat and hence, he prayed for transfer of the case in M.C.No.52 of 2015 pending on the file of the Family Court at Salem to the file of Family Court at Dindigul.

3. Resisting the same, the learned counsel appearing for the respondents would submit that already the husband filed O.S.No.94 of 2014 on the file of the District Munsif, Vadipatti. The wife filed an petition in Tr.CMP.No.534 of 2014 before this Court praying for transfer of the suit in O.S.No.94 of 2014 to Family Court, Salem. During the pendency of the Tr.CMP, the petitioner has obtained an exparte decree. But this Court ordered for transfer of O.S.No.94 of 2014 on the file of District Munsif, Vadipatti to Salem, that has been challenged, in which notice alone has been ordered. Only with a view to drag on the wife to Dindigul, the present petition has been filed. The learned counsel further submitted that there is no threat at the hands of the first respondent and therefore, prayed for dismissal of the petition.

4. Considering the rival submissions made on either side and also perusing the typed set of papers and also the fact that the marriage of the petitioner and the first respondent was performed on 07.12.2003 and through the lawful wedlock, the second respondent was born on 27.07.2006 and the petition under Section 125 of Cr.P.C has been filed by the respondent in the year 2015 at Salem, where she is residing, now the point to be decided is whether it is a fit case for ordering transfer.

5. The reason assigned by the petitioner in paragraph-5 of the affidavit that the brother of the first respondent came to his place of business at Telangana along with few henchmen and brutally assaulted him. Even though, the petitioner has not give any complaint. It is stated by the petitioner that once the brother of the first respondent was going to the extent of threatening the petitioner at Telengana, there is a possibility of life threat at Salem where the first respondent/wife is residing and hence, sought for transfer of the case to Dindigul. The reason assigned in paragraph-5 of the affidavit is not a satisfactory reason for ordering transfer. This Court is of the view that the reason of life threat shown in the affidavit is merely for seeking transfer of the case, since so far the petitioner has not given any police complaint. If any lift threat, the petitioner can very well intimate the same to the concerned Officer or police and sought for police protection. In the absence of the same, I am of the view that the reason

given in the affidavit is not sufficient to withdraw the case from the Family Court, Salem and transfer the same to the Family Court, Dindigul. Hence, I do not find any merit in this petition and the same deserves to be dismissed.

6. Accordingly, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judge,
Family Court, Salem.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Richardson Wilson, Advocate, S.R.No.9423

+1cc to M/S.K.S.Jeyaganeshan, Advocate, S.R.No.9233

CrI.O.P.No.1292 of 2016
and

CrI.M.P.Nos.576 and 577 of 2016

sns (CO)
srg (03/03/2016)

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