

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.13493 of 2016 and

Crl.M.P.No.6927 of 2016

A.T.Thiruvenkada Kumar

..Petitioner

Vs

A.Sugasini

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to withdraw the M.C.No.5/2016 from the file of the Court of the learned Family Court, Puducherry and transfer the same to the Family Court, Villupuram to be tried along with HMOP No.181/2015.

For Petitioner : No appearance

O R D E R

This petition has been filed to withdraw M.C.No.5/2016 from the file of the Court of the learned Family Court, Puducherry and transfer the same to the Family Court, Villupuram to be tried along with HMOP No.181/2015.

2. On account of boycott of Courts, there is no representation on the side of the petitioner. However, in Harish Uppal [Ex.Capt.] Vs Union of India reported in [2003] 2 SCC 45, the Hon'ble Supreme Court has held that boycott of Courts is illegal and therefore, this Court perused through the records and passed the following order:

3. For the sake of convenience, the parties will be referred to by their name.

4. Thiruvenkada Kumar got married to Sugasini on 21.08.2008 and they have one child through the wedlock. Thiruvenkada Kumar is working in Middle-East and Sugasini and her child are living in Puducherry. It is alleged by Thiruvenkada Kumar that Sugasini developed illicit intimacy with one Paramaguru and despite mediation talks, the parties were not able to arrive at a compromise. Therefore, Thiruvenkada Kumar has filed HMOP No.181/2015 for divorce before the Family Court, Villupuram and

the same is pending. While so, Sugasini has filed a petition in M.C.No.5/2016 before the Family Court, Puducherry u/s 125 Cr.P.C. claiming maintenance for herself and her child. Sugasini has also filed Tr.CMP No.251/2016 to transfer HMOP No.181/2015 from the Family Court, Villupuram to the Family Court, Puducherry and the case is pending before this Court. While so, Thiruvankada Kumar has filed the present petition to transfer M.C.No.5/2016 from the Family Court, Puducherry to the Family Court, Villupuram to be tried along with HMOP No.181/2015. Thiruvankada Kumar has made allegations that Sugasini's paternal uncle is a Cabinet Minister at Puducherry and therefore, he will not get fair trial in Puducherry.

5. In the considered opinion of this Court, if this allegation is accepted, it will be a slur on the independence of the judiciary. That apart, Section 125 Cr.P.C. is a beneficial legislation intended to provide financial support to deserted wife and children. Even according to Thiruvankada Kumar, he is abroad and he has given a power of attorney to his father to attend the two courts. Under Section 125 Cr.P.C., the Court in whose jurisdiction the deserted wife lives will have the power to enquire into the case. A hapless lady who does not have financial support cannot be made to run from pillar to post. Hence, this petition is devoid of merits and the same is dismissed. Consequently, connected miscellaneous petition is closed. Any observation made herein shall not in any way prejudice the case of both parties either in Tr.CMP No.251/2016 or the proceedings before the trial Court. It is always open to the concerned Court to either reject the plea of transfer made by Sugasini in Tr.CMP No.251/2016 or allow her plea, as the case may be.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

gms

To

1. The Family Court, Puducherry.

+1 cc to Mr.S.Sathia Chandran Advocate sr.36057

Cr1.OP No.13493 of 2016

aa13/07/2016

WEB COPY