



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.276 of 2015

and M.P(MD)No.1 of 2015

P.Suguna ... Petitioner/Respondent
Vs.

J.Saravanan ... Respondent/ Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to transfer H.M.O.P.No.482 of 2015 on the file of the Family Court, Madurai to the Sub Court, Sivakasi.

For Petitioner : Mr.Dhana Chandra Prakash

For Respondent : Mr.A.Arun Prasad

O R D E R

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.482 of 2015, on the file of the Family Court, Madurai and transfer the same to the Sub Court, Sivakasi.

2.The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 30.06.2002. Due to wedlock, they were blessed with two children. The respondent / husband demanded more dowry and harassed the petitioner. Hence, the petitioner left the matrimonial home. On 22.01.2013, the petitioner preferred a complaint before the Social Welfare Officer, Virudhunagar. The said complaint was taken on file as Cr.M.P.No.3409 of 2013 by the learned Judicial Magistrate, Sivakasi. The learned Judicial Magistrate directed the respondent to pay compensation of Rs.50,000/- and monthly maintenance of Rs.6,000/- for the petitioner and her children. However, the respondent has not paid the maintenance. The petitioner filed a petition in Cr.M.P.No.8501 of 2014 in M.C.No.41 of 2013 in Cr.M.P.No.3409 of 2013 before the learned Judicial Magistrate, Sivakasi for a direction to remit Rs.1,04,000/- as arrears of maintenance. Whiles, the respondent file a petition in H.M.O.P.No.482 of 2015 before the Family Court, Madurai for divorce. The petitioner is residing at Sivakasi with her children. The distance between Madurai and Sivakasi is about 100 kms and it is very difficult for the petitioner to travel each and every hearing to attend the case in H.M.O.P.No.482 of 2015 on the file of the Family



Court, Madurai. The petitioner is depending on her parents for day to day expenses including travel expenses. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Madurai. Therefore, she has come out with the present petition for transfer.

3.The learned counsel for the respondent stated that the respondent is working as a Driver in Tamil Nadu State Transport Corporation at Madurai and it is very difficult for getting leave and appear before the Sub Court, Sivakasi and therefore, prayed for dismissal of Tr.C.M.P.

4.It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference as held by the Hon'ble Supreme Court in the judgments reported in **2008(9) SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta) and AIR 2002 SC 396 (Sumita Singh Vs. Kumar Sanjay and another)**. Therefore, I am of the view that the petitions filed by the wife is liable to be allowed.

5.Considering the facts and circumstances of the case and the submission of the learned counsel for the respondent, this Transfer Civil Miscellaneous Petition is ordered and H.M.O.P.No.482 of 2015 on the file of the Family Court, Madurai is hereby withdrawn and transferred to the file of the Sub Court, Sivakasi. The learned Family Court Judge, Madurai is directed to send the case bundles in H.M.O.P.No.482 of 2015 to the Sub Court, Sivakasi. No costs. Consequently, M.P(MD) No.1 of 2015 is closed.

Sd/

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Subordinate Judge, Sivakasi
- 2.The Judge, Family Court, Madurai.

CN/JGB-DP/11.03.2016/2P-3C

Tr.C.M.P. (MD) No.276 of 2015