



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.03.2016

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P (MD) No.345 of 2015

and

M.P (MD) No.1 of 2015

Shanmugapriya

.. Petitioner

Vs.

K.Banuprakash

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the H.M.O.P.No.27 of 2015 pending before the Sub Court, Bhavani and transfer the same to Sub Court, Kulithalai.

For Petitioner

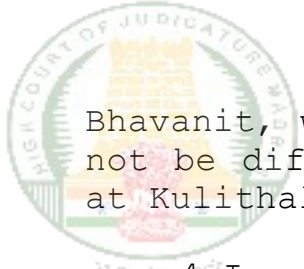
: Mr.K.Govindarajan

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.27 of 2015, on the file of the Sub Court, Bhavani and transfer the same to the file of Sub Court, Kulithalai.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 10.09.2010 as per Hindu Rites and Customs. After the marriage, both were living together in the matrimonial home. Thereafter, the respondent and his family members tortured the petitioner, by demanding additional dowry and threatened her that they would arrange another marriage for the respondent. In the month of April, 2014, the respondent thrown out the petitioner from the matrimonial home. In May, 2014, the petitioner lodged a complaint before the Inspector of Police, All Women Police station, Kulithalai, for reunion. Again on 20.01.2015, she made a complaint before the Inspector of Police, All Women Police Station, Bhavani. While so, the respondent filed H.M.O.P.No.27 of 2015 for Restitution of Conjugal Rights, before the Sub Court, Bhavani.

3.Now, the petitioner is residing with her parents at Nadupatti Kovakulam P.O., Mayaur Kaval Srakam, Krishnarayapuram Taluk, Karur District and she filed M.C.No.1 of 2015, on the file of the Judicial Magistrate No.II, Kuzhithalai. She is not having any independent income and she is depending on her parents for her day-to-day expenses, including the travelling expenses. The distance between Bhavani and Karur is more than 80 kms and she is finding it very difficult to attend each and every hearing at



Bhavanit, without help of others. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Kulithalai.

4. In such circumstances, the petitioner filed this petition to transfer the aforesaid HMOP No.27 of 2015, filed by the respondent/husband, before the Sub Court, Bhavani, to Sub Court, Kulithalai.

5. Heard the learned counsel appearing for the petitioner. Though notice was served on the respondent and his name is printed in the cause list, he has not chosen to appear either in person or through counsel.

6. 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 petition filed by the wife is liable to be allowed.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.27 of 2015, on the file of the Sub Court, Bhavani, is hereby withdrawn and transferred to the file of the Sub Court, Kulithalai. The learned Sub Judge, Bhavani, is directed to send the case bundles to the Sub Court, Kulithalai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, M.P (MD) No.1 of 2015 is closed.

Sd/
Assistant Registrar (C O Dept)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Bhavani.
2. The Subordinate Judge,
Kulithalai.

Copy to: The Section Officer, VR Sections,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr. K. Govindarajan, Advocate SR.No. 13864

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TR.C.M.P(MD) No.345 of 2015