

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 21.04.2016****CORAM:****THE HONOURABLE MS. JUSTICE V.M.VELUMANI****Tr.C.M.P(MD)No.369 of 2015****and****M.P(MD)No.1 of 2015**

P.Menaka

... Petitioner/Respondent

Vs.

T.Prabhu

... Respondent/Petitioner

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 r/w 151 of C.P.C., to withdraw the case in H.M.O.P.No.160 of 2014 on the file of the learned III Additional Subordinate Judge, Madurai (Camp Sub Court), Usilampatti and transfer to learned Family Court, Madurai District and consequently, direct the transferee court to deal with the said case in accordance with law.

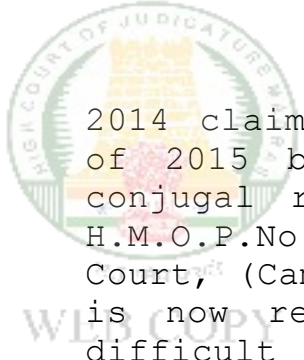
For Petitioner : Mr.R.Anand

For Respondent : Mr.T.R.Jeyapalam

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.160 of 2014 on the file of the learned III Additional Subordinate Judge, Madurai (Camp Sub Court), Usilampatti and transfer the same to Family Court, Madurai District.

2.The petitioner herein is the wife and the respondent is the husband. The marriage was solemnized between the petitioner and the respondent on 10.08.2012. At the time of marriage, the respondent was working as Police at Armed Reserved Police, Thiruvannamalai and both were living together at Thiruvannamalai. In mean time, the respondent got transfer from Thiruvannamalai to Virudhunagar on 16.11.2013. Due to torture by the respondent, the petitioner gave a complaint before the Inspector of Police, Sindhupatti Police Station, Madurai District and a case in Crime No.115 of 2014 under Section 498(A) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act had been filed against the respondent. The petitioner filed a petition in M.C.No.60 of



2014 claiming maintenance and another petition in H.M.O.P.No.445 of 2015 before the Family Court, Madurai, for restitution of conjugal rights. Whiles, the respondent filed a petition in H.M.O.P.No.160 of 2014 before the III Additional Subordinate Court, (Camp Sub Court), Usilampatti, for divorce. The petitioner is now residing with her parents at Madurai and it is very difficult for her to travel each and every hearing to attend the case in H.M.O.P.No.160 of 2014 on the file of the III Additional Subordinate Court (Camp Sub Court), Usilampatti. The petitioner is depending on her parents for her day to day expenses including travelling expenses. She has also stated that it will not be difficult for the respondent / husband to attend the hearing at Family Court, Madurai. Therefore, she has come out with the present petition for transfer.

3.The learned counsel for the respondent submitted that as the respondent is working at Virudhunagar, it will be very difficult for him to appear before the Family Court, Madurai.

4.In view of the submission made by the learned counsel for the petitioner that the parties and subject matter of the issue is one and the same and to avoid conflicting decisions and in the interest of justice, both M.C.No.60 of 2014 and H.M.O.P.No.445 of 2015 are to be tried together in the same Court.

5.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.

6.Considering the facts and circumstances, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.160 of 2014 on the file of the III Additional Subordinate Court, Madurai (Camp Sub Court), Usilampatti, is hereby withdrawn and transferred to the file of the Family Court, Madurai District to be tried along with M.C.No.60 of 2014 and H.M.O.P.No.445 of 2015, filed by the petitioner if the same are not yet disposed of. The learned III Additional Subordinate Judge, Madurai (Camp Sub Court), Usilampatti is directed to send the case bundles in H.M.O.P.No.160 of 2014 to the Family Court, Madurai, immediately. The Registry is directed to send back the papers that are pending before the Registry. As the petitions in H.M.O.P.No.160 of 2014 and M.C.No.60 of 2014 are of the year 2014, the learned Judge, Family Court, Madurai is hereby directed to dispose of both the cases as ~~expeditiously~~ as possible, in any event, not later than 31.12.2016.



No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The III Additional Subordinate Judge, Madurai.
(Camp Sub Court, Usilampatti)

2.The Judge, Family Court, Madurai.

+one cc to M/s.T.R.Jeyapalam, Advocate in SR.No.22279

+one cc to M/s.K.Sivabalan, Advocate in SR.No.22352

nbj

CSL/PEK/SAR-I/02.06.2016 :3P/5C

Tr.C.M.P. (MD) No.369 of 2015
21.04.2016