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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

Tr.CMP(MD)No.401 of 2015

and

M.P.(MD)No.1 of of 2015 and CMP(MD)No.210 of 2016

Kruba @ Kruthika

: Petitioner/Respondent

Versus

S.Saravanan

: Respondent/Petitioner

PRAYER: This Transfer Civil Miscellaneous Petition is filed under section 24 of the Civil Procedure Code, to withdraw and transfer the proceedings in HMOP No.266 of 2015 on the file of the learned Sub Court, Poonamallee to the file file of the learned Sub Judge, Pudukkottai.

For Petitioner : Mrs.K.Mahalakshmi

For respondent : Mr.Haja Nazirudheen
for Mr.A.Saravanakumar

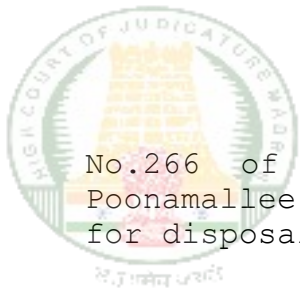
O R D E R

Seeking the relief of withdrawal of the matrimonial proceedings in HMOP No.266 of 2015 on the file of the learned Subordinate Judge, Poonamallee to the file of the learned Subordinate Judge, Pudukkottai, this petition is filed by the petitioner, who is none other than the wife of the respondent herein under section 24 of the Code of Civil Procedure.

2.Heard **Mrs.K.Mahalakshmi**, learned counsel appearing for the petitioner and **Mr.Haja Nazirudheen**, learned counsel appearing for Mr.A.Saravanakumar, who is on record for the respondent.

3.There is no dispute with regard to the relationship of the petitioner and the respondent as husband and wife. In fact, their marriage was solemnized on 07.06.1998 at Pudukkottai. On account of matrimonial tiff, both the petitioner and the respondent had been living separately for the past five years.

4.It is also understood from the averments of the petition that out of their wedlock, the petitioner had delivered two female children and both the children are now within the custody of the respondent and they are studying at Vellammal Matriculation School at Chennai. Under this circumstance, the respondent has filed a petition in HMOP No.266 of 2015 on the file of the learned Subordinate Judge, Poonamallee under section 13(1)(i-a) and (i-b) of the Hindu Marriage Act, 1955 r/w section 7 of the Family Courts Act, 1984 seeking the relief of divorce on the ground of cruelty. That application seems to have been resisted by the petitioner by filing her counter statement. Now, the petition is ripen
<https://hcservices.courts.gov.in/hcservices/> Under these circumstances, the petitioner, being the respondent had come forward with this transfer civil miscellaneous petition seeking withdrawal of the matrimonial proceedings in HMOP



No.266 of 2015 from the file of the learned Subordinate Judge, Poonamallee to the file of the learned Subordinate Judge, Pudukkottai for disposal in the manner known to law.

5.It is revealed from the records that previously, the respondent had filed a matrimonial proceedings in HMOP No.56 of 2012 on 25.01.2012 on the file of the learned Subordinate Judge, Pudukkottai seeking the very same relief and at the intervention of the elderly people and relatives of the family, that application was not-pressed and both of them were living for a short span of time and thereafter, the petitioner had parted on her way with the respondent.

6.Now, with this petition, the petitioner has stated that the respondent had openly proclaimed to assassinate her character by using his police force and for this reason, she apprehends that when she is appearing before the learned Subordinate Judge, Poonamallee, the respondent might foist a false case against her.

7.Apart from this, she has also stated that the distance between her house at Pudukkottai town from Chennai is about 400 kms and therefore, she finds it difficult to travel from Pudukkottai to Chennai lonely and on this ground, she has also sought the withdrawal of the petition. Only on the above two grounds, she has filed this petition to withdraw the above said matrimonial proceedings from the file of the learned Subordinate Judge, Poonamallee and transfer to the file of the Subordinate Judge, Pudukkottai.

8.On the other hand, Mr.Haja Nazirudheen, learned counsel for the respondent has invited the attention of this court to the averments of para 8 of the counter affidavit filed by the respondent, wherein he has stated that his obligation coupled with duty and is taking care of his daughters, who are deprived of their motherly affection, with utmost care and leaving a day in isolation may not be conducive for their education and happiness. The children should not feel solitariness in the absence of their father, lest the mother does not possess pinch of affection and feeling towards the children.

9.It is also to be noted that as observed earlier, the two children are now in the custody of the respondent and he has been incurring all the maintenance expenses including the educational expenses. Under this circumstance, the learned counsel appearing for the respondent has pointed out that no matter about the distance and the respondent is ready and willing to bear the travelling expenses of the petitioner whatever may be cost as observed by the Hon'ble Supreme court in the decision in **Kangalakshmi vs. A.Venkatesan [(2004)13 SCC 405]**.

10.On the other hand, Mrs.Mahalakshmi, learned counsel appearing for the petitioner has submitted that since the petitioner being a lady and she has to travel from Pudukkottai to Chennai, it is very difficult one and only on this ground, she has urged to allow the petition.



11. This court has considered the submissions made on behalf of both sides, perused the grounds of the petition for transfer of the above said matrimonial proceedings.

12. In view of the above, this court finds that already the matrimonial proceedings is ripen for trial and the petitioner's children are studying now at Chennai and since, they being female children, the respondent finds difficulty to leave them alone to come to Pudukottai for attending the hearing of the matrimonial proceedings. As observed by the Hon'ble Supreme Court in the decision in **Kangalakshmi vs. A. Venkatesan [(2004) 13 SCC 405]**, husband prepared to bear the expenses not only of the petitioner, but also of the person accompanying her.

13. Keeping in view of the above facts, this court finds that the petition is deserved to be dismissed and a direction may be given to the learned Trial Judge to dispose of the above matrimonial proceedings within a time bound manner.

14. Accordingly, this petition is dismissed. The learned Subordinate Judge, Poonamallee is directed to dispose of the said matrimonial proceedings within a period of two months from the date of receipt of a copy of this order. Further, the respondent is directed to bear the travelling expenses of the petitioner. However, there shall be no order as to costs. Consequently, connected Miscellaneous petitions are closed.

Sd/

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar(C.S)
Madurai Bench of Madras High Court,
Madurai.

To

1. The Subordinate Judge,
Pudukkottai.

2. The Subordinate Judge,
Poonamallee.

+1cc to M/S.A.Saravanankumar, Advocate in SR.No.2201
+1cc to M/S.K.Mahalakshmi, Advocate in SR.No.2379

Tr.CMP(MD) No.401 of 2015
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