



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2016

CORAM:

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

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Tr.C.M.P (MD) Nos.457 of 2015 and 210 of 2016
and
M.P (MD) Nos.1 and 2 of 2015
and
C.M.P. (MD) No.3828 of 2016

Tr.C.M.P. (MD) No.457 of 2015:

Kavitha

... Petitioner

Vs.

Parthiban @ Subramanian

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.1103 of 2015 pending on the file of Family Court, Coimbatore and transfer the same to the file of the Principal Sub Court, Thanjavur and try along with H.M.O.P.No.254 of 2015.

For Petitioner : Mr.P.Vadivel

For Respondent : Mr.K.Baalasundharam

Tr.C.M.P. (MD) No.210 of 2015:

Parthiban @ Subramanian

... Petitioner

Vs.

Kavitha

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the petition in H.M.O.P.No.254 of 2015 on the file of the Principal Sub Court, Thanjavur and transfer the same to any court nearest to Thanjavur District.

For Petitioner : Mr.K.Baalasundharam

For Respondent : Mr.P.Vadivel

COMMON ORDER

The Transfer Civil Miscellaneous Petition in Tr.C.M.P. (MD) NO.457 of 2015 is filed by the wife to withdraw the case in H.M.O.P.No.1103 of 2015 filed by the husband, pending before the



Family Court, Coimbatore and transfer the same to the file of the Principal Sub Court, Thanjavur and to try along with H.M.O.P.No.254 of 2015 filed by wife.

2.The Transfer Civil Miscellaneous Petition in Tr.C.M.P.(MD) No.210 of 2016 is filed by the husband to withdraw the case in H.M.O.P.No.254 of 2015 filed by the wife, pending before the Principal Sub Court, Thanjavur and transfer the same to any court near to Thanjavur District.

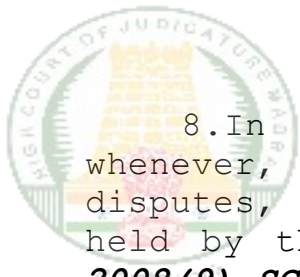
3.The parties are referred to as husband and wife. The marriage was solemnized between the parties on 29.06.2014 as per Hindu rites and customs. After marriage, the husband and his family members demanded more dowry and left the wife at her parents house at Thanjavur. The wife filed a petition in H.M.O.P.No.254 of 2015 before the Principal Sub Court, Thanjavur, for restitution of conjugal rights. While so, the respondent / husband filed a petition in H.M.O.P.No.1103 of 2015 before the Family Court, Coimbatore, for dissolution of marriage.

4.According to the wife, she is residing at Thanjavur along with her parents. The distance between Thanjavur and Coimbatore is about 275 kms and it is very difficult for the wife to travel each and every hearing to attend the case in H.M.O.P.No.1103 of 2015 before the Family Court, Coimbatore. The wife is depending on her parents for her day to day expenses including the travelling expenses. Therefore, she has come out with the present petition for transfer the case in H.M.O.P.No.1103 of 2015 from the file of the Family Court, Coimbatore to the file of the Principal Sub Court, Thanjavur and to try the case along with H.M.O.P.No.254 of 2015 pending before the Principal Sub Court, Thanjavur in order to avoid conflicting decisions.

5.The learned counsel for the husband submitted that the husband is residing at Coimbatore and on 18.09.2015, the father of the wife and her relatives came to his house and quarreled with him and his father and also threatened them with dire consequence. The learned counsel further submitted that there is a danger to the life of the husband by the wife's family members and hence, he has come out with the petition in Tr.C.M.P.(MD)No.210 of 2016.

6.Heard the learned counsel for the parties.

7.The contention of the learned counsel for the husband is that there is a life threat by the wife and her family members to husband. According to the husband, the family members of wife came to Coimbatore and threatened him with dire consequences. He has not produced any documents to substantiate his case. The wife has submitted that she has no independent income and she is depending on her parents for her day to day expenses. These averments are not denied by the husband.



8. In these circumstances, 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)** and to avoid conflicting decisions, both H.M.O.P.Nos.1103 and 254 of 2015 are to be tried together in the same Court. Therefore, I am of the view that the petitions filed by the wife is liable to be allowed.

9. Accordingly, this Transfer Civil Miscellaneous Petition in Tr.C.M.P. (MD) No.457 of 2015 is allowed and H.M.O.P.No.1103 of 2015 pending on file of the Family Court, Coimbatore, is hereby withdrawn and transferred to the file of the Principal Subordinate Court, Thanjavur, for joint trial. The learned Judge, Family Court, Coimbatore, is directed to send the case bundles in H.M.O.P.No.1103 of 2015 to the Principal Subordinate Court, Thanjavur. The learned Principal Sub Judge, Thanjavur is hereby directed to dispose of both the cases in H.M.O.P.No.1103 of 2015 and H.M.O.P.No.254 of 2015. The Registry is also directed to send back the papers that are pending before the Registry. The Transfer Civil Miscellaneous petition in Tr.C.M.P. (MD) No.210 of 2016 is dismissed.

No costs. Consequently, connected civil miscellaneous petition and M.Ps. are closed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. The Judge, Family Court, Coimbatore.
2. The Principal Subordinate Judge, Thanjavur.

+ 1 CC TO M/S.P.VADIVEL, ADVOCATE IN SR NO. 22793
+ 1 CC TO M/S.K.BALASUNDHARAM, ADVOCATE IN SR NO. 22408

NBJ

TE/SK/ : 01/06/2016 : 3P/5C

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