



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Crl.O.P. (MD) .Nos.5855 of 2016 and 17767 of 2014

and

C.M.P. (MD) .No.2897 of 2016

and

M.P. (MD) .No.1 of 2014

Anto Xavier
cases

.. Petitioner in both

Vs.

Minor Jennifer A.Xavier
(represented by her mother C.Shally)

.. Respondent
in both cases

Common Prayer: These Criminal Original Petitions filed under Section 407 of Cr.P.C. praying to transfer the cases in C.M.P.Nos.3451 of 2015 and 1056 of 2012 in M.C.No.13 of 2011 pending before the learned Judicial Magistrate No.I, Kuzhithurai to any other court in Valliyoor.

For Petitioner : Mr.T.Selvakumaran
in both cases

For respondent : Mr.N.Dilipkumar
in both cases

COMMON ORDER

These petitions are filed to transfer the cases in C.M.P.Nos.3451 of 2015 and 1056 of 2012 in M.C.No.13 of 2011 pending before the learned Judicial Magistrate No.I, Kuzhithurai to any other court in Valliyoor.

2. Heard both sides and perused the records.

3. The case of the petitioner is that he married one C.Shally, the second respondent in Crl.O.P.(MD).No.2978 of 2010 and out of the lawful wedlock, they are blessed with a child namely Jenifer A.Xavier, the respondent in these petitions. Due to some misunderstanding, the petitioner's wife lodged a complaint against him and his family members under the provisions of Indian Penal Code and Dowry Prohibition Act. Subsequently, the matter was compromised and as per the compromise, the petitioner deposited Rs.5,00,000/- (Rupees five lakhs only) in the name of his minor child and also returned the gold jewels to his wife. Based on the



ex-parte order passed in the maintenance case, the applications are filed for the recovery of the further maintenance amount.

4. The grievance of the petitioner is that his wife is a practising advocate in Kulzhithurai Bar and the Bar has passed a resolution to the effect that no member of the Bar shall appear for the petitioner and also insisting him to pay the arrears of maintenance to his wife. Since the petitioner could not appear before the Judicial Magistrate Court in Kuzhithurai, the case has to be transferred to any other Court.

5. Mr.N.Dilipkumar, learned counsel for the respondent would submit that the order passed in the maintenance case has become final and the allegations of the petitioner is not supported by any documents. It is further submitted that after obtaining interim stay in this case, a memo was filed through an advocate of Kuzhithurai Bar, so these petitions have to be dismissed.

6. Considering the fact that the petitioner's wife is a practising lawyer in Kuzhithurai Bar and in the interest of justice, the petitions in C.M.P.Nos.3451 of 2015 and 1056 of 2012 in M.C.No.13 of 2011, pending before the learned Judicial Magistrate No.I, Kuzhithurai are transferred to the file of the learned Judicial Magistrate No.III, Nagercoil. The learned Judicial Magistrate No.I, Kuzhithurai is directed to transfer the records in both cases to the transferee court forthwith. On receipt of the same, the learned Judicial Magistrate No.III, Nagercoil, shall dispose of the cases as expeditiously as possible, preferably on or before 31.12.2016.

7. With the above direction, these criminal original petitions are disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I, Kuzhithurai.

2.The Judicial Magistrate No.III, Nagercoil.

+1 CC to Mr.N.DILIP KUMAR, Advocate, SR No.61258

+1 CC to Mr.T.SELVAKUMARAN, Advocate, SR No.62073

**CrI.O.P. (MD) .Nos.5855 of 2016
and 17767 of 2014 and
C.M.P. (MD) .No.2897 of 2016 and
M.P. (MD) .No.1 of 2014**

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