



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2016

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P(MD)No.109 of 2016 and

C.M.P(MD)No.1845 of 2016

Girija Selvi

...Petitioner

Vs.

P.Karuppasamy @ Ramesh

...Respondent

Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the proceedings in H.M.O.P.No.154 of 2014 pending on the file of the Learned Subordinate Judge, Sivakasi to Family Court, Tirunelveli.

For Petitioner : Mr.P.Pethu Rajesh

For Respondent : Mr.S.M.Anantha Murugan

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.154 of 2014, on the file of the Sub Court, Sivakasi and transfer the same to the file of Family Court, Tirunelveli.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 23.05.2013. A male child was born on 03.03.2014 in the wedlock. After the time of birth of the child, the respondent and his family members came to the hospital and demanded additional dowry from the parents of the petitioner. The petitioner gave a police complaint to the Inspector of Police, All Women Police Station, Tirunelveli. While so, the respondent filed HMOP NO.154 of 2014, on the file of the Sub Court, Sivakasi for Restitution of Conjugal Rights.

3. According to the petitioner, she is residing at Kokirakulam, Palayamkottai with her parents along with her child. She is not having any independent income and she is depending on her parents for her day-to-day expenses including travel expenses. The distance between the Kokirakulam and Sivakasi is more than 11 kms. She finds it very difficult to travel from Kokirakulam to Sivakasi along with her child without help of others. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at Tirunelveli. Only to escape from the criminal proceedings initiated against the respondent, the respondent filed the HMOP No.154 of 2014.

4.In such circumstances, the petitioner filed this petition to transfer the aforesaid HMOP No.154 of 2014, filed by the respondent, husband, before the Sub Court, Sivakasi, to Family Court, Tirunelveli.

5.The learned counsel appearing for respondent submitted that the HMOP filed by respondent is pending before Sub Court, Sivaksi and therefore her appearance before the Sub Court is not necessary in all the hearings and prayed for dismissal of Tr.C.M.P.



6. Heard the learned counsel appearing for the petitioner and the respondent.

7. 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.

8. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.154 of 2014, on the file of the Sub Court, Sivakasi, is hereby withdrawn and transferred to the file of the Family Court, Tirunelveli. The learned Sub Judge, Sivakasi, is directed to send the case bundles to the Family Court, Tirunelveli, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, C.M.P(MD)No.1845 of 2016 is closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

- 1.The Subordinate Judge, Sivakasi.
- 2.The Judge, Family Court, Tirunelveli.

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

+1cc to M/s.P.Pethu Rajesh, Advocate in SR.20049
+1cc to M/s.S.M.Anantha Murugan, Advocate in SR.20186

Tr.C.M.P(MD)No.109 of 2016
11.04.2016

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