



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :20.04.2016
CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

TR.C.M.P (MD) No.130 of 2016
and
C.M.P (MD) No.2158 of 2016

Sathyapriya

.. Petitioner/Respondent

Vs.

A.Manimaran

.. Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the divorce petition in H.M.O.P.No.215 of 2015, on the file of the learned Sub Court, Theni and transfer the same to the file of the learned Sub Court, Madurai.

For Petitioner : Mr.P.Suresh Kumar

For Respondent : Mr.N.R.Sreenivasan

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the divorce petition in H.M.O.P.No.215 of 2015, on the file of Sub Court, Theni and transfer the same to the file of the Sub Court, Madurai.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 30.10.2014 as per Hindu Rites and Customs. After the marriage, on 23.01.2015, the respondent insisted the petitioner to sign the divorce papers and on her refusal, the respondent chased her out from matrimonial home. On 25.01.2015, the respondent and his relatives trespassed into her parents house and threatened that if she has not signed the divorce papers, she has to face the consequences. She gave a complaint before the Inspector of Police, All Women Police Station, Samayanallur and case has been registered in Cr.No.29 of 2015 under Sections 498 (A), 506(i) of IPC and Section 4 of Tamil Nadu Prevention of Women Harassment Act. The petitioner filed M.C.No.11 of 2015 before the Judicial Magistrate, Vadipatti under Protection of Women from Domestic Violence Act. While so, the respondent filed H.M.O.P.No.215 of 2015, on the file of the Sub Court, Theni, for divorce.

3.According to the petitioner, she is residing at Vadipatti along with her parents. She is not having any independent income and she is depending on her parents for her day-to-day expenses including travelling expenses. The distance between Vadipatti and Theni is more than 70 kms. She finds it very difficult to travel from Vadipatti to Theni. She has also stated that it will not be difficult for the respondent/husband to attend the hearing at



Madurai. On 04.02.2016, when the petitioner and her parents went to Theni to attend the Court proceedings, the respondent threatened her with dire consequences. In the circumstances, she has come out with the Transfer Civil Miscellaneous Petition to transfer the aforesaid H.M.O.P.No.215 of 2015 filed by the respondent/Husband before the Sub Court, Theni to the file of the Sub Court, Madurai.

4.The learned counsel for the respondent submitted that the distance between Vadipatti and Theni is only 70 kms and it will not be difficult for her to travel from Vadipatti to Theni. He further submitted that the complaint given by the petitioner is only a false complaint, therefore, prayed for dismissal of the Transfer Civil Miscellaneous Petition.

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

6. 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.

7. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and H.M.O.P.No.215 of 2015 on the file of the Sub Court, Theni, is hereby withdrawn and transferred to the file of the Sub Court, Madurai, if the same is not yet disposed of. The learned Sub Judge, Theni, is directed to send the case bundles to the Sub Court, Madurai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently connected miscellaneous petition is also dismissed.

8.Both the learned counsel for the petitioner as well as respondent prayed for early disposal of H.M.O.P.No.215 of 2015.

9.In the circumstances, the learned Sub-Judge, Madurai is directed to dispose of H.M.O.P.No.215 of 2015 on merits as expeditiously as possible in any event not later than 30th November, 2016.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

1.The Subordinate Judge , Theni.

2.The Subordinate Judge, Madurai.

Copy to:- The Section Officer, V.R.Section,

Madurai Bench of Madras High Court, Madurai

+One cc to Mr.R.Karunanidhi, Advocate, SR.No.21973