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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

TR.CMP (MD) No.249 of 2016

and

C.M.P (MD) No.4945 of 2016

Irin Johns Mary

... Petitioner

vs.

Henry

... Respondent

Petition filed under Section 24 of the Civil Procedure Code, to withdraw the case in O.P.No.328 of 2016 on the file of the III Additional Judge, Family Court at Chennai and transfer the same to the Learned District and Sessions Judge, Nagercoil at Kanyakumari.

For Petitioner : Mr.C.Kishore

For Respondent : No appearance

O R D E R

The marriage between the petitioner and the respondent was solemnized on 10.12.2014 as per the Christian rites. They commenced the matrimonial home at Chennai and the respondent started ill-treating the petitioner. The family members of the petitioner were abused by the respondent at Chennai and due to the wordy quarrel between the respective parties and their family members, the petitioner left the matrimonial home and is now residing in her parents' home at Kanyakumari. The petitioner gave a complaint to the All Women Police Station and a case was registered. In order to avoid the criminal case, the respondent filed O.P.No.328 of 2016 for restitution of conjugal rights under the Indian Divorce Act, before the III Additional Judge, Family Court at Chennai. Further, the petitioner filed Crl.M.P.No.913 of 2016 under the Protection of Women from Domestic Violence Act and it is pending before the Judicial Magistrate No.II, Nagercoil and subsequently numbered as DVOP.No.14 of 2016. Further, the petitioner is not having independent sources of income to spend and travel to Chennai to defend the case in O.P.No.328 of 2016.

2. Counsel for the respondent has not appeared.



3. The fact remains that the criminal proceedings are pending before the Judicial Magistrate, Nagercoil. Therefore, considering the well settled legal position that in transfer petitions regarding matrimonial disputes, convenience of the wife has to be given preference, this Court is of the view that the case of the petitioner deserves to be considered and accordingly, this Transfer Civil Miscellaneous Petition is allowed and O.P.No.328 of 2016 pending on the file of the III Additional Court, Family Court at Chennai, is ordered to be transferred to the District and Sessions Court, Nagercoil at Kanyakumari, forthwith. No costs. Consequently, C.M.P(MD) No.4945 of 2016 is closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

- 1) The III Additional Judge,
Family Court at Chennai
- 2) The District and Sessions Judge,
Nagercoil at Kanyakumari.

+1 cc to Mr.C.Kishore, Advocate in SR No.63487

TR.CMP(MD)No.249 of 2016
25.10.2016

NBI

ANR/EM-MPA/09.11.2016/2P/4C