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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.02.2016

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

**TR.C.M.P(MD)No.477 of 2013
and M.P(MD)No.1 of 2013**

M.Revathy

.. Petitioner/Respondent

Vs.

N.Anburaj

.. Respondent/Petitioner

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw H.M.O.P.No.661 of 2013 from the file of the Principal Sub-Court, Trichy and transfer the same to the file of Family Court, Madurai to be tried along with Crl.M.P.No.111 of 2013.

For Petitioner : Mr.R.Subramanian

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw the case in H.M.O.P.No.661 of 2013, on the file of the Principal Sub-Court, Trichy and transfer the same to the file of Family Court, Madurai to be tried along with Crl.M.P.No.111 of 2013.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 28.03.2007. After the marriage, both were residing together in the matrimonial home at Singapore. On 17.05.2008, they returned to India. The respondent harassed the petitioner by demanding a sum of Rs.1,00,000/- for celebrating Vazhaikappu. In the wedlock, one male child was born on 14.09.2008. The petitioner and her parents could not pay the dowry demanded by the respondent. Therefore, the respondent did not take back the petitioner and her child to the matrimonial home. Due to the dispute, the petitioner filed M.C.No.25 of 2009, before the Family Court, Madurai, for maintenance. Thereafter, the respondent filed H.M.O.P.No.62 of 2009. The said HMOP., was transferred to Family Court, Madurai. On 28.07.2010, the respondent has made a statement before the Family Court that he was willing for re-union. Recording the said statement, the HMOP and M.C., were closed. Subsequently, the respondent refused to take the petitioner and her child to the matrimonial home. Again, the petitioner filed M.C.No.62 of 2011, before the Family Court, Madurai, for maintenance, which was allowed on 08.05.2013. The petitioner filed Crl.M.P.No.111 of 2013 to direct the respondent to pay the maintenance as per the orders passed in M.C.No.62 of 2011. Immediately, as a counterblast, the respondent filed H.M.O.P.No.661 of 2013 before the Principal Sub Court, Trichy, for divorce.

3.According to the petitioner, the respondent is working in Singapore. Now, the petitioner is residing with her aged parents along with her child. She is finding it very difficult to travel from Madurai to Trichy 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 Madurai. She is not having any independent income and she is depending on her aged parents for her day to day expenses, including the travel expenses.

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4.Now, the petitioner/wife filed this petition to transfer the aforesaid H.M.O.P.No.661 of 2013, filed by the respondent/Husband before the Sub Court, Trichy to the Family Court, Madurai, to be tried along with Crl.M.P.No.111 of 2013.

5.Heard the learned counsel appearing for the petitioner. Despite service of notice, the respondent has not chosen to appear either in person or through Counsel.

6.In view of the submissions made by the learned counsel for the petitioner that the parties and subject matter of the issue is one and the same and to avoid conflicting decisions and in the interest of justice, both H.M.O.P.No.661 of 2013 and Crl.M.P.No.111 of 2013 are ordered to be tried together in the same Court.

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.661 of 2013, on the file of the Principal Sub Court, Trichy, is hereby withdrawn and transferred to the file of the Family Court, Madurai, to be tried along with Crl.M.P.No.111 of 2013 filed by the petitioner, if the same is not yet disposed of. The learned Principal Sub Judge, Trichy, is directed to send the case bundles to the Family Court, Madurai, immediately. The Registry is also directed to send back the papers that are pending before the Registry. No costs. Consequently, M.P(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1.The Judge, Family Court, Madurai.

2.The Principal Subordinate Judge, Trichy.

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

Madurai Bench of Madras High Court, Madurai.

+lcc to Mr.R.Subramanian, Advocate Sr.No.10883

akm/09.03.2016/2p-5c/MP/AN/SAR-I

<https://hcservices.ecourts.gov.in/hcservices/>

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