

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2017

(ORDERS RESERVED ON 24.07.2017)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRL.O.P.NO.4601 OF 2014

Kalaiselvi Petitioner/De facto complainant

... Vs ...

1. The State Rep. by
Inspector of Police,
All Woman Police Station,
Tirukoilur,
Villupuram District. 1st Respondent/Complainant
2. Anandakumar
3. Vasanda
4. Sundaramurthy Respondents 2 to 4/Accused

PRAYER: Criminal Original Petition filed under Section 407 of Cr.P.C., to transfer the case from the file of the learned Judicial Magistrate, Tirukoilur, to some other Magistrate Court out of Villupuram District in C.C.No.1648 of 2008 pending before the learned Judicial Magistrate, Tirukoilur in Crime No.28 of 2008 before the first respondent.

For Petitioner : Mr.N.Rangasamy
For R-1 : Mr.B.Ramesh Babu,
Government Advocate (Crl.Side)
For RR-2 to 4 : Mr.G.Arul Murugan

ORDER

This criminal original petition is filed under Section 407 of Cr.P.C., seeking to transfer the case in C.C.No.1648 of 2008 from the file of the learned Judicial Magistrate, Tirukoilur, to some other Magistrate Court out of Villupuram District.

2. The case of the petitioner/de facto complainant is that the marriage between herself and the second respondent namely, Anandakumar was solemnized on 06.09.2001 at Thirumagal Thirumana Mandapam, Tirukoilur, and out of the said legal wed log, a female child was born on 27.12.2002. It is the further case of the petitioner that she was subjected to mental cruelty and there is a demand of dowry and accordingly, she has given a complaint against four accused under Section 498(A) of IPC and Section 4 of Dowry Prohibition Act and a case was registered by the first respondent police in Crime No.28 of 2008, on 06.10.2008. After the investigation, the first respondent police has filed the final report before the learned Judicial Magistrate, Tirukoilur, and the same was taken on file as C.C.No.1648 of 2008 for the offence under Section 498(A) of IPC and Section 4 of Dowry Prohibition Act r/w. Section 109 of IPC against three accused namely, against respondents 2, 3 and 4 alone. In respect of the other person viz., Uma Rani, as the investigation does not reveal any overt act against her, her name was not mentioned in the final report.

3. When the matter was taken up for trial, the petitioner herein has filed a petition in Crl.M.P.No.6289 of 2015 under Section 319 of Cr.P.C. before the learned Judicial Magistrate, Thirukoilur, for impleading the said Uma Rani, who is the sister-in-law of the petitioner herein. After contest, the said petition was dismissed by the learned Magistrate on 31.05.2016. Aggrieved against the said order of dismissal, the petitioner herein has filed a criminal revision case before this Court in Crl.R.C.No.1090 of 2016 seeking to set aside the order dated 31.05.2016 passed by the learned Judicial Magistrate, Thirukoilur and after contest, the said criminal revision case was dismissed by this Court on 28.02.2017.

4. While that being the case, the petitioner herein has filed a petition before the learned Chief Judicial Magistrate, Villupuram, in Crl.M.P.No.410 of 2013 under Section 410 of Cr.P.C. seeking to transfer the case in C.C.No.1648 of 2008 pending on the file of the learned Judicial Magistrate, Tirukoilur, to the file of the learned Chief Judicial Magistrate at Villupuram, on the ground that the husband of the Uma Rani namely, Krishnamurthi is practicing advocate and his Senior advocate is the Member of Parliament. After contest, the said transfer petition was dismissed by the learned Chief Judicial Magistrate, Villupuram, on 24.01.2014.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and the learned counsel appearing for respondents 2 to 4 and this Court has also perused the records.

6. Learned counsel appearing for the petitioner has submitted that the petitioner/wife will not get chance of a fair trial in the Judicial Magistrate's Court at Tirukoilur as the brother-in-law of the second respondent is an advocate practicing in the said Court.

7. Learned counsel appearing for respondents 2 to 4 has submitted that this is yet another method to prolong the litigation. The marriage was taken place in the year 2001 and female child was born in the year 2002 and the sister of the second respondent namely, Uma Rani got married in the year 2003, while the present complaint was filed in the year 2008. Further, after examination of P.W.1 and P.W.2 in the year 2010, the case has not seen any progress due to the delay in tactics agitated by the petitioner herein in filing the petition stalling the proceedings. The second respondent, in his counter affidavit, has stated that the petitioner's father, who is a retired Inspector, was examined as P.W.2.

8. After hearing both the parties, considering the factual matrix of the case and also the fact that a civil suit is also pending before the civil Court, in the interest of justice, without expressing any opinion, this Court is of the considered view that the following order will meet the ends of justice.

The case in C.C.No.1648 of 2008 pending on the file of the learned Judicial Magistrate, Tirukoilur, is withdrawn and transferred to the file of the learned Judicial Magistrate No.1, Villupuram. The learned Judicial Magistrate, Tirukoilur, is required to send the case papers in C.C.No.1648 of 2008, within 15 days from the date of receipt of copy of this order and the learned Judicial Magistrate No.1, Villupuram, is directed to take the case on its file within a period of two weeks thereafter and commence and complete the trial within 16 weeks thereafter.

9. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Jr1

To

1. The Judicial Magistrate,
Tirukoilur.
2. The Judicial Magistrate No.1,
Villupuram.
3. The Public Prosecutor,
High Court, Madras.
4. The Inspector of Police,
All Woman Police Station,
Tirukoilur,
Villupuram District.

+1cc to Mr.N.Rangasamy, Advocate, S.R.No.54447
+1cc to Mr.G.Arul Murugan, Advocate, S.R.No.53993

Crl.O.P.No.4601 of 2014

RJ(CO)
CS/18/08/17



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