

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.04.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Crl.O.P.No.8158 of 2011

Murugan

.. Petitioner

vs

Anusuya

.. Respondent

Prayer: Criminal Original Petition filed under Section 407 of Code of Criminal Procedure, to transfer M.C.No.30 of 2010 from the file of the learned Chief Judicial Magistrate, Cuddalore to the file of the Family Court, Puducherry for trial along with the Divorce petition filed by the petitioner herein.

For Petitioner : Mr.A.M.Rahamath Ali

For Respondent : M/s.B.V.Sai Lakshmi

ORDER

This Criminal Original Petition is filed by the petitioner/husband seeking to transfer a maintenance case filed by the respondent / wife in M.C.No.30 of 2010 on the file of learned Chief Judicial Magistrate, Cuddalore to the file of Family Court, Puducherry for trial along with divorce petition filed by petitioner.

2.The petitioner submits that his matrimonial life with the respondent irrevocably broken down within few month from the date of their marriage and therefore he filed a divorce petition before the Family Court at Puducherry to dissolve their marriage solemnized on 16.06.2010.

3.As the divorce petition remained filed within one year from the date of marriage, the petitioner to waive the statutory period of one year filed an Interlocutory Application in I.A.No.19 of 2011 before the learned Family Court, Puducherry.

4.According to the petitioner, on receipt of legal notice caused upon the respondent in above interlocutory application, the respondent to counterblast his divorce petition filed

maintenance case in M.C.No.30 of 2010.

5.I heard Mr.A.M.Rahmath Ali, learned counsel for the petitioner and M/s.B.V.Sai Lakshmi, learned counsel for the respondent and perused the entire materials available on record.

6.It is the contention of the Learned Counsel for the petitioner that respondent's maintenance case is liable to be transferred from the file of learned Chief Judicial Magistrate, Cuddalore to the file of learned Family Court, Puducherry for Joint Trial.

7.The prime contention of the Learned Counsel for the petitioner seeking Joint Trial would be that the issues to be decided in both the proceedings are one and the same, hence to expedient the proceedings the joint trial is required.

8.It is also his contention that the residence of the respondent situate at equal distance between Cuddalore and Puducherry and hence the transfer of case will not affect the respondent in any manner.

9.At the outset I am not inclined at the submission made by the Learned Counsel for the petitioner for a simple reason that the scope of section 125 of Cr.P.C. application seeking maintenance stand at different footing from a divorce proceeding.

10.It is needless to say that Section 125 of Cr.P.C. deals with maintenance and in actual the filing of the maintenance case in no way will affect the divorce proceeding and vice versa.

11.Again it is needless to say that it is for the respondent to decide as to where the maintenance case has to be filed in accordance with its jurisdiction.

12.Merely because a divorce proceeding is pending in a Court situated elsewhere in one amongst Districts of Tamilnadu, it do warrant a maintenance case filed by a wife pending at some other Court to be transferred and tried together along with divorce proceedings. Therefore, I do not find any merits in this petition and the same is liable to be dismissed.

13.In the result, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vs

To

1.The Chief Judicial Magistrate, Cuddalore.

2.The Judge,
The Family Court, Puducherry.

Cr1.O.P.No.8158 of 2011

BR (CO)
GN (12/02/2019)



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