

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2017

CORAM

THE HON'BLE MR.JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P.No.25971 of 2010

and

M.P.No.1 of 2010

R.S.Balamurugan

... Petitioner

Vs

1. Varalakshmi
2. Minor Akash
Rep. by his next friend mother
1st petitioner.

... Respondents

Criminal Original Petition filed under Section 407 Cr.P.C to withdraw the case in M.C.No.30 of 2009 from the file of the Judicial Magistrate, No.II, Karaikal and transfer the same to any one of the Judicial Magistrate at Mayiladuthurai, Nagapattinam District.

For Petitioner : Mr.Sarath Chander
For M/s.K.M.Vijayan Associates

For Respondents : Mr.S.Sounthar

ORDER

This Criminal Original Petition has been filed seeking withdrawal of the

case in M.C.No.30 of 2009 on the file of Judicial Magistrate, No.II, Karaikal and transfer the same to any one of the Judicial Magistrate at Mayiladuthurai, Nagapattinam District.

2. The brief fact is that the petitioner and the respondent got married on 22.02.2007 and due to the wedlock, a child was born and thereafter due to matrimonial dispute, the wife had left the petitioner's residence. Therefore, the petitioner had filed H.M.O.P.No.130 of 2007 for restitution of conjugal rights and the same was referred to Lok Adalat and no compromise was arrived in the said mediation. Thereafter, the petitioner had filed H.M.O.P.No.38 of 2009 before the Subj Judge, Mayiladuthurai for divorce and the 1st respondent filed maintenance case in M.C.No.30 of 2009 before the Judicial Magistrate No.II, Karaikal. Now, the petitioner has sought for transfer of the M.C case from Judicial Magistrate No.II, Karaikal to any one of the Judicial Magistrate, Mayiladuthurai.

3. The grounds raised by the petitioner is that the M.C had been filed by the respondent due to the vengeance for not accepting the separate residence and that the relatives and brother of the 1st respondent had threatened the petitioner not to contest the case and also given torture to him at the time of appearance in the court concerned. Though it has been stated by the petitioner that he was tortured by the brother of the 1st respondent, no complaint or no

material had been filed by the petitioner in proof of the same. This Court finds no merit in the grounds raised by the petitioner.

4. Accordingly, this Criminal Original Petition is dismissed as devoid of merits. However, both side counsels submitted that they have no instruction from either of the parties. If in the event M.C.No.30 of 2009 is still pending on the file of Judicial Magistrate No.II, Karaikal, the Magistrate is directed to dispose of the M.C.No.30 of 2009 within a period of six months from the date of receipt of copy of this order.

30.08.2017

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Index : Yes
Internet: Yes

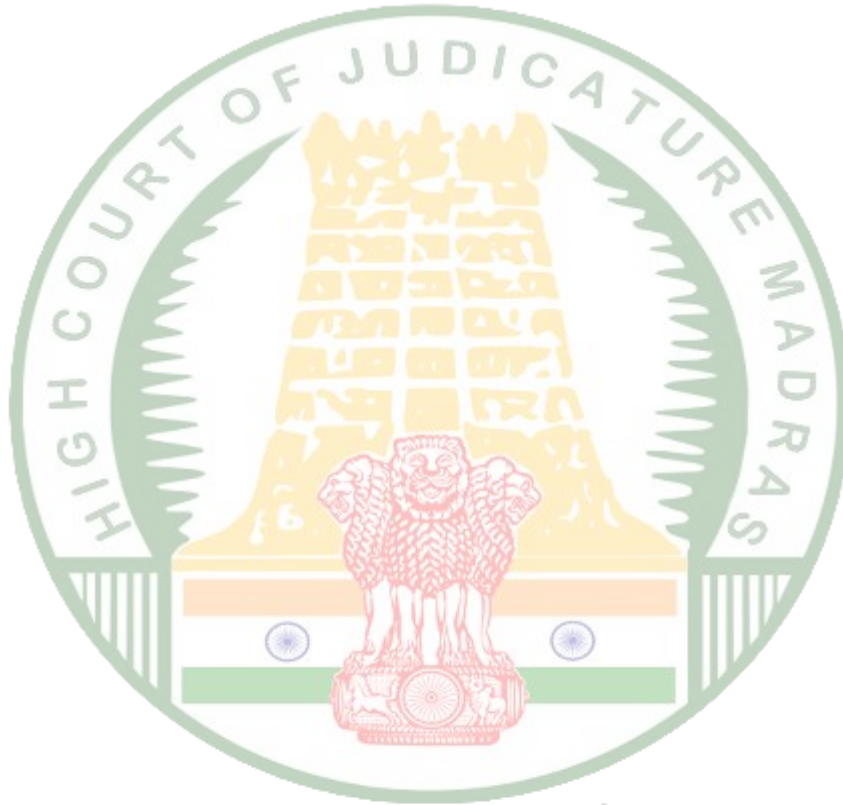
To

1. Judicial Magistrate No.II, Karaikal.
2. The Public Prosecutor, [High Court, Chennai](#).

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A.D. JAGADISH CHANDIRA,J
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