

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P.No.805 of 2016
and C.M.P.No.20302 of 2016

Illavarasi

.. Petitioner

Vs.

Jayachandran

.. Respondent

Petition filed under Section 24 of the Civil Procedure Code, to transfer the proceedings in F.C.O.P.No.136 of 2016 pending before the Family Court at Vellore to be adjudicated before the Subordinate Judge at Thiruvannamalai.

For Petitioner : Mr.D.Manimaran

For Respondent : Mr.Durai Gunasekaran

ORDER

The petitioner is the wife and the respondent is the husband. The marriage between them was solemnised on 20.08.2012 at Chenpakkam Vellore Town, as per Hindu Rites and Customs. After marriage, both of them lived together. It is stated by the petitioner that she met with torture at the hands of the respondent's parents and she explained the incidents to her parents when they came to her matrimonial home. Thereafter, a complaint was lodged by the petitioner's father on 06.01.2014 before the concerned Superintendent of Police, against the respondent. While so, the respondent filed a petition in FCOP No.136 of 2016 before the Family Court at Vellore for divorce on the ground of cruelty. In furtherance of the same, the petitioner filed a petition in HMOP No.74 of 2016 seeking restitution of conjugal rights before the Principal Subordinate Judge, Thiruvannamalai.

2. According to the petitioner, her husband and her in-laws are influential persons in Vellore and surrounding Districts. Further, she is residing with her aged parents at Thiruvannamalai; the distance between Vellore and Thiruvannamalai is more than 80 Kms and she finds it very difficult to travel from Thiruvannamalai to Vellore for each and every hearing. Under the circumstances, the present Tr.CMP is filed.

3.The learned counsel for the respondent submits that if the respondent appears before the Principal Sub-Court, Thiruvannamalai, there will be a life threat by the petitioner's family.

4.Heard both sides.

5.According to the petitioner, she has to travel a long distance to attend each and every hearing at Vellore. According to the respondent, the respondent is working at CMC Hospital, Vellore and it is very difficult for him to appear before the Court at Thiruvannamalai, if it is transferred.

6.After considering the submissions made on either side, this Court is of the view that it is unnecessary for the parties to appear for all hearings. The parties have to appear only at the time of trial and as and when so directed by the learned Judge. Further, 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]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in F.C.O.P.No.136 of 2016 from the file of the Family Court at Vellore to the file of the Principal Subordinate Judge, Thiruvannamalai to be tried alongwith H.M.O.P. No.74 of 2016.

7.Accordingly, the petition in FCOP No.136 of 2016 on the file of the Family Court, Vellore is withdrawn and the same is transferred to the file of the Principal Subordinate Judge, Thiruvannamalai to have a joint trial with HMOP No.74 of 2016. The learned Family Court Judge, Vellore is directed to send the case bundle to the Principal Subordinate Judge, Thiruvannamalai immediately, after receipt of a copy of this order.

8.The Transfer CMP is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Family Court Judge, Vellore.

2.The Subordinate Judge, Thiruvannamalai.

+1cc to Mr.Durai Gunasekaran, Advocate, S.R.No.24120

+1cc to Mr.D. Manimaran, Advocate, S.R.No.23981

LRS (CO)

EU 4.5.17

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