

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

CrI.O.P.No.26852 of 2016

and

CrI.M.P.No.13491 of 2016

D.Chandramohan

..Petitioner/Respondent

vs

R.Kiruthika

..Respondent/Petitioner

Petition filed under Section 407 of the Criminal Procedure Code, to withdraw the case in M.C.No.6 of 2016 pending on the file of the Judicial Magistrate Court at Rasipuram, Namakkal District and to transfer the same to the file of the Family Court at Salem.

For Petitioner : Mr.C.Prabakaran

For Respondent : No appearance

O R D E R

This Criminal Original Petition has been filed for a direction to withdraw the case in M.C.No.6 of 2016 pending on the file of the Judicial Magistrate Court at Rasipuram, Namakkal District and to transfer the same to the file of the Family Court at Salem.

2.The petitioner is the husband and the respondent is the wife. It is stated by the petitioner that the respondent picked up quarrel with him for flimsy reasons and created strained relationship and suddenly on 29.11.2015 she told him that she is not interested to live with him. Further, the respondent harassed and ill-treated the petitioner. In view of the same, the petitioner was constrained to file a divorce petition before the Family Court, Salem along with interlocutory application and the said divorce petition is unnumbered. The respondent also filed a petition for restitution of conjugal rights in F.C.O.P.No.205 of 2016 before the Family Court, Salem. She also filed a domestic violence petition in D.V.O.P.No.31 of 2016 before the Mahila Court, Salem and all the cases are pending before the respective courts at Salem. At this juncture, the

respondent filed a maintenance case in M.C.No.6 of 2016 before the Judicial Magistrate Court at Rasipuram. The petitioner states that since all the cases stated above are pending before the respective Courts in Salem, it is just and necessary to transfer the case in M.C.No.6 of 2016 pending on the file of the Judicial Magistrate Court at Rasipuram, Namakkal District, to the file of the Family Court, Salem, since the maintenance case could be tried before the Family Court also.

2.The learned counsel for the petitioner reiterated the submissions made in the affidavit filed in support of this petition and prayed for allowing this Criminal Original Petition.

3.It is seen from the records that except one case, ie., the maintenance case in M.C.No.6 of 2016, which is pending before the Judicial Magistrate Court, Rasipuram, Namakkal District, all other three cases are pending in the Courts at Salem. Further, even though private notice has been served on the respondent and the name of the respondent is also printed in the cause list, there is no representation on behalf of the respondent.

4.Considering the facts and circumstances of the case, and also in the interest of justice, this Court deems it fit to grant the relief as prayed for by the petitioner in this Criminal Original Petition. Accordingly, the case in M.C.No.6 of 2016 pending on the file of the Judicial Magistrate Court at Rasipuram, Namakkal District is withdrawn and the same is transferred to the file of the Family Court, Salem.

5.The Criminal Original Petition is ordered accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(J)

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Sub Assistant Registrar

KM

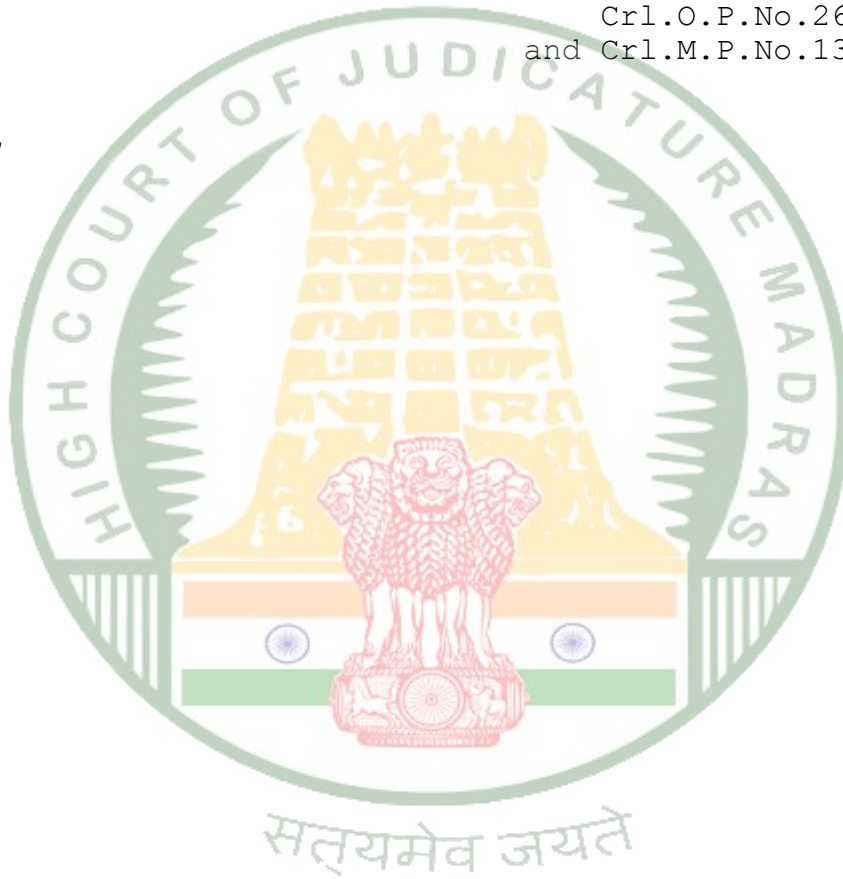
To

- 1.The Judicial Magistrate, Rasipuram, Namakkal District.
- 2.The Judge, Family Court, Salem.

+ 1 cc to Mr.C. Prabakaran, Advocate Sr.249

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