



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 30.06.2017
CORAM

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

WEB COPY

Crl.O.P.(MD) Nos.19828 of 2015 and 2461 of 2017
and M.P.(MD) No.1 of 2015 in Crl.O.P.(MD) 19828 of 2015 &
Crl.M.P.(MD) No.1924 of 2017 in Crl.O.P.(MD) No.2461 of 2017

1. Visalakshi
2. Minor Nithya
D/o.Sathiah
(Rep. by her mother and natural
guardian 1st petitioner herein) ... Petitioners/Petitioners in
Crl.O.P.(MD) No.19828 of 2015

Visalakshi ... Petitioner in Crl.O.P.(MD) No.2461
of 2017

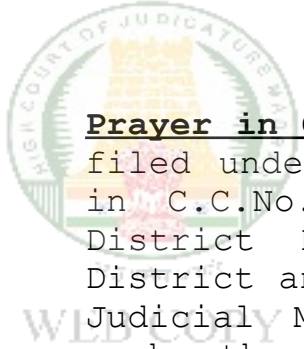
-vs-

1. Sathiah
2. Karuppiyah
3. Pooranam
4. Shanthi
5. Ramasamy
6. Jothimani
7. Anandan ... Respondents/Respondents in
Crl.O.P.(MD) No.19828 of 2015

1. The Inspector of Police,
All Women Police Station,
Karaikudi, Sivagangai District.
(in Crime No.8 of 2013)

2. Sathiah
3. Karuppiyah
4. Pooranam
5. Ananthan
6. Ramasamy ... Respondents/Respondents in
Crl.O.P.(MD) No.2461 of 2017

Prayer in Crl.O.P.(MD) No.19828 of 2015: Criminal Original
Petition filed under Section 482 of Cr.P.C., praying to withdraw
the case in M.C.No.8 of 2013 from the file of the learned Judicial
Magistrate, Karaikudi and transfer the same to the learned
Judicial Magistrate, Thirumayam, Pudukkottai District and pass
such other or further orders as this Hon'ble Court may deem fit
and proper in the circumstances of the case.



Prayer in CrI.O.P. (MD) No.2461 of 2017: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to withdraw the case in C.C.No.271 of 2013 on the file of the learned Principal District Munsif-cum-Judicial Magistrate, Karaikudi, Sivagangai District and transfer the same to the learned District Munsif-cum-Judicial Magistrate, Thirumayam, Pudukkottai District and pass such other or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioners	: Mr.Arul Vadivel @ Sekar
For R2, R3 & R7	: Mr.D.Venkatesh (in CrI.O.P.(MD) No.19828 of 2015)
For R1	: Mr.K.Anbarasan Govt. Advocate (CrI.Side) (in CrI.O.P.(MD) No.2461 of 2017)
For R3 to R5	: Mr.D.Venkatesh (in CrI.O.P.(MD) No.2461 of 2017)

C O M M O N O R D E R

CrI.O.P.(MD) No.19828 of 2015 has been filed to to withdraw the case in M.C.No.8 of 2013 from the file of the learned Judicial Magistrate, Karaikudi and transfer the same to the learned Judicial Magistrate, Thirumayam, Pudukkottai District. The petitioner in CrI.O.P.(MD) No.2461 of 2017 seeks to withdraw the case in C.C.No.271 of 2013 on the file of the learned Principal District Munsif-cum-Judicial Magistrate, Karaikudi, Sivagangai District and transfer the same to the learned District Munsif-cum-Judicial Magistrate, Thirumayam, Pudukkottai District.

2. Visalakshi got married to Sathiah on 06.06.2011 and they have one child by name Nithya. Their marriage ran into rough weather, resulting in the spouses getting estranged. On the complaint lodged by Visalakshi, the Inspector of Police, AWPS, Karaikudi registered a case in Crime No.8 of 2013 and after completing the investigation has filed a charge sheet in C.C.No.271 of 2013 before the Principal District Munsif-cum-Judicial Magistrate, Karaikudi under Section 498(A) IPC and Section 4 of TNPWH Act against Sathiah and four others. Visalakshi also filed M.C.No.8 of 2013 before the Judicial Magistrate, Karaikudi under the Domestic Violence Act against Sathiah and four others, claiming various reliefs. While so, Visalakshi is before this Court for transferring both C.C.No.271 of 2013 and M.C.No.8 of 2013 to the District Munsif-cum-Judicial Magistrate Court, Thirumayam, Pudukkottai District on the ground that she has now settled near Thirumayam after separation.

<https://hcservices.ecourts.gov.in/hcservices/> 04.2017, this Court passed the following order:

"Pursuant to the order dated 03.04.2017 passed by this Court, Mr.A.K.Manickam and Mr.Raja Mohammed, learned



counsel conducted mediation proceedings and they reported that despite their best efforts, they were not able to bring about a settlement between the parties.

2. This Court places on records its appreciation to Mr.A.K.Manickam and Mr.Raja Mohammed, learned counsel, for the good efforts taken by them.

3. Today, Ms.S.Geethalakshmi, Sub-Inspector of Police, All Women Police Station, Karaikudi, is present. Visalakshmi, Sathiah, Karuppiyah and Pooranam are present.

4. Mr.C.Arul Vadivel @ Sekar, learned counsel appearing for the petitioners submitted that the arrears of Rs.2,60,000/- towards maintenance has accrued, for which, Mr.D.Venkatesh, learned counsel fairly submitted that if one week time is granted, Sathiah will deposit Rs.1,00,000/- (Rupees One Lakh only).

5. Recording the submission, Sathiah is directed to deposit Rs.1,00,000/- (Rupees One Lakh only) to the credit of M.C.No.7 of 2013 before the learned Principal District Munsif-cum-Judicial Magistrate, Karaikudi and on such deposit, Visalakshmi will be entitled to withdraw the same.

6. Call on 24.04.2017 "for reporting compliance."

4. Today, Ms.S.Geethalakshmi, Sub-Inspector of Police, All Women Police Station, Karaikudi, is present and Sathiah is also present before this Court.

5. Learned counsel for Sathiah submitted that Sathiah has deposited Rs.1,00,000/- to the credit of M.C.No.8 of 2013 on 21.04.2017 before the learned Principal District Munsif-cum-Judicial Magistrate, Karaikudi, Sivagangai District. He also submitted that the accused have no objection for transferring both the cases to the District Munsif-cum-Judicial Magistrate Court, Thirumayam, Pudukkottai District and that Sathiah may be permitted to go to Singapore, where he is working, as his visa will expire on 22.07.2017.

6. In view of the above, this Court passes the following order:

i) Sathiah shall deposit the arrears of Rs.1,60,000/- before the learned Principal District Munsif-cum-Judicial Magistrate, Karaikudi, Sivagangai District within one week from the date of <https://hcservices.prd.mts.gov.in/hcservices/> copy of this order and on such deposit, Visalakshi will be entitled to withdraw the same.



ii) Learned Principal District Munsif-cum-Judicial Magistrate, Karaikudi, Sivagangai District is directed to transfer the entire case records in C.C.No.271 of 2013 to the file of District Munsif-cum-Judicial Magistrate, Thirumayam, Pudukkottai District, after Sathiah deposits the arrears of maintenance of Rs.1,60,000/-.

WEB COPY

iii) Learned Judicial Magistrate, Karaikudi is directed to transfer the entire case records in M.C.No.8 of 2013 to the file of the learned District Munsif-cum-Judicial Magistrate, Thirumayam, Pudukkottai District.

iv) The presence of Sathiah before the Trial Court in the criminal prosecution is dispensed with on condition that he shall appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and at the time of passing judgment and he shall file an affidavit of undertaking under Section 317 Cr.P.C. before the trial Court that he will not dispute his identity and that the counsel named by him in the affidavit will cross-examine the prosecution witnesses on the day they are examined-in-chief, as held by the Supreme Court in Vinod Kumar vs. State of Punjab, [(2015) 3 SCC 220]. Whenever the presence of Sathiah is required by the Trial Court, it will be sufficient if the notice of appearance is served on the counsel appointed by him.

v) Sathiah shall engage an advocate on special vakalat in domestic violence proceedings and file an affidavit of undertaking that his counsel will cross-examine the witnesses produced by Visalakshi even in his absence without taking unnecessary adjournment. His counsel also shall file the necessary petition under Section 317, Cr.P.C. for condoning his absence.

vi) Whenever the Trial Court wants Sathiah's presence, the intimation shall be given to the Advocate engaged by Sathiah and that would amount to sufficient service of notice of hearing. If thereafter Sathiah does not appear, it is always open to the Trial Court to issue a Non Bailable Warrant against him and look out circular and a fresh FIR can be registered against him under Section 229-A IPC.

Both these petitions are ordered accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/



To:

1. The Judicial Magistrate,
Karaikudi.
2. The District Munsif-cum-Judicial Magistrate,
Thirumayam, Pudukkottai.
3. The Principal District Munsif-cum-Judicial Magistrate,
Karaikudi,
Sivagangai District.
4. The Inspector of Police,
All Women Police Station,
Karaikudi, Sivagangai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2cc to M/S.C.Arul Vadivel @ Sekar, Advocate SR.No. 62947, 62946
+1cc to M/S.D.Venkatesh, Advocate SR.No. 62930

Crl.O.P.(MD) Nos.19828 of 2015 and 2461 of 2017
30.06.2017

ar

JM/MR/SAR 1/05.07.2017/5P/9C