



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :04.08.2017

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THE HONOURABLE MRS.JUSTICE J. NISHA BANU

TR.C.M.P(MD)No.310 of 2017
and
C.M.P(MD)No.6645 of 2017

E.Sankara Goamathi

...Petitioner

Vs.

R.Saravana Kumar

...Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and transfer the proceeding in H.M.O.P.No.736 of 2016 pending on the file of the Family Court, Madurai to the Family Court, Tirunelveli.

For Petitioner : Mr.P.Pethu Rajesh
For Respondent : Mr.J.Devasenar

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw H.M.O.P.No.736 of 2016 pending on the file of the Family Court, Madurai and transfer the same to the Family Court, Tirunelveli.

2. The brief facts of the case are as follows:

(i) The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 08.02.2015. At the time of marriage, the parents of the petitioner offered 40 sovereigns of gold jewels, cash of Rs. 1,00,000/- and household articles worth about Rs.1,00,000/-, as sridhana properties. After marriage, the petitioner had demanded more dowry from the petitioner.

(ii) It is the further case of the petitioner that she got conceived and without appreciating the said fact, she was made to work and therefore, her health condition has become worse and therefore, the child got aborted. The mother of the respondent has stated that she is going to arrange for a second marriage to the respondent and therefore, compelled the petitioner for mutual divorce. Further, on 09.08.2015, the respondent demanded a sum of RS.3,00,000/- for construction of a house. Since the petitioner refused for the same, they have driven her out from the matrimonial



home. Subsequently, the respondent filed H.M.O.P.No.736 of 2016 for dissolution of marriage.

(iii) It is further stated that the petitioner filed a petition in M.C.No.2 of 2017 before the Family Court, seeking maintenance and the same was allowed with a direction to pay a sum of Rs.10,000/- per month. Aggrieved by the said order, the respondent preferred a criminal revision petition in Crl.R.C(MD)No. 328 of 2017 before this Court and obtained an order of interim stay. The respondent has filed the above said H.M.O.P., in order to escape from the further criminal proceedings.

3. The learned counsel for the petitioner submitted that the petitioner is living in Tirunelveli under the care and custody of her parents, who are not in a sound financial position and therefore, the petitioner is not in a position to go and appear on all hearings dates before the Family Court, Madurai. Hence, the petitioner has come forward with this petition seeking transfer of the above said case to the file of the Family Court, Tirunelveli.

4. The learned counsel for the respondent would submit that the respondent has no objection for transfer of the case if a direction is issued for speedy disposal.

5. Heard the submissions made on either side and perused the materials available on record.

6. It is well settled law that whenever, a 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*). I am satisfied with the reasons stated in the affidavit filed in support of this petition and the learned counsel for the respondent has also got no objection for transferring the above case to the file of the Family Court, Tirunelveli.

7. Taking into consideration of the facts and circumstances of the case and in the interest of justice, this Transfer Civil Miscellaneous Petition is allowed with the following directions:-

i) The learned Judge, Family Court, Madurai, is directed to transmit the entire records in H.M.O.P.No. 736 of 2016 to the file of the Family Court, Tirunelveli, within a period of two weeks from the date of receipt of copy of this order.



directed to dispose of H.M.O.P.No.736 of 2016 as expeditiously as possible, more particularly, within a period of six months from the date of receipt of a copy of this order.

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No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub-Assistant Registrar

To

1.The Family Court Judge,
The Family Court,
Madurai.

2.The Family Court Judge,
The Family Court,
Tirunelveli.

+One cc to M/s.P.Pethu Rajesh, Advocate, SR.No.70495

pm
RL/4C/3P/MR/KKR/SAR3/10/8/2017

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