



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.09.2017

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

**TR.C.M.P(MD)No.368 of 2017
and C.M.P(MD) No.7537 of 2017**

S.Priya Vinothini

...Petitioner

Vs.

S.Manikandan

...Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the case in O.P. No.2520 of 2017 on the file of the learned Family Judge No.II, Madras and transfer the same to the learned Family Judge, Madurai.

For Petitioner : Mr.K.K.Kannan

For Respondent : Mr.S.Muthumalai Raja

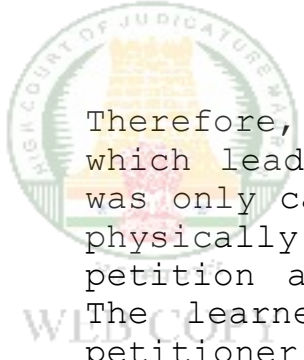
J U D G M E N T

The Transfer Civil Miscellaneous Petition is filed to transfer the case in O.P. No.2520 of 2017 from the file of the learned Family Judge No.II, Madras to the learned Family Judge, Madurai.

2.The petitioner has filed a divorce petition in H.M.O.P.No.512 of 2017 and maintenance petition in M.C.No.94 of 2017 on the file of the Family Court, Madurai. On receipt of the notice from the Family Court, Madurai, the husband filed above H.M.O.P.No.2520 of 2017 on the file of the Family Court, Chennai seeking restitution of conjugal rights.

3.The petitioner would aver in the petition that she married the respondent on 05.02.2016. At the time of marriage, 70 sovereigns of Gold Ornaments besides the 'seer' etc. were given. The respondent received Rs.5,00,000-/ as dowry. The petitioner was forced for partition of her family properties and in this regard, the respondent and his family members treated her with cruelty. The petitioner had made other allegations against the mother-in-law. There are several kinds of torture against the petitioner by the family members of the respondent.

1. In pregnancy period, she wanted to stay at her mother's house, Madurai but the respondent did not like the same.



Therefore, the petitioner was brutally attacked by the respondent, which leads to abortion of the child at 6th month. The abortion was only caused by the respondent and she was severely affected by physically and mentally. Hence, the petitioner filed divorce petition and alimony petition before the Family Judge, Madurai. The learned counsel for the petitioner would submit that the petitioner is ready to produce medical records to prove six months pregnancy got terminated.

5. The respondent filed O.P.No.2520 of 2017 on the file of the Family Court No.II at Madras, for restitution of conjugal rights. The petitioner would submit that the respondent filed the said petition not with genuine intention but only sham and nominal. The petitioner submit that she has no income source and she solely depends upon her parents even for her basic needs. Therefore, the petitioner seeks for transfer.

6. The learned counsel appearing for the respondent would submit that the respondent had filed a petition for restitution of conjugal rights and the petitioner/wife has filed the divorce petition and maintenance petition only to harass the respondent.

7. Heard both sides.

8. I am satisfied with the reasons stated in the affidavit filed in support of this petition. It is well settled law that convenience of woman is to be taken into consideration at the time of considering transfer applications as held by the Supreme Court in the judgment reported in **2008(9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta)**. I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned Family Judge No.II, Madras, is directed to transmit the entire records in O.P. No.2520 of 2017 to the file of the Family Court, Madurai, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Judge, Family Court, Madurai after obtaining the records on transfer, is directed to dispose of O.P. No.2520 of 2017 along with H.M.O.P.No.512 of 2017 and M.C.No.94 of 2017 as expeditiously as possible in accordance with law.

No costs. Consequently, connected C.M.P.(MD) No.7537 of 2017 is closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/



To

1.The Judge,
Family Court No.II, Madras.

2.The Judge,
Family Court, Madurai.

+1 cc to Mr.K.K.Kannan , Advocate in SR.No. 76471

+1 cc to Mr.S.Muthu Malai Raja , Advocate in SR.No. 30104

CM

AE/KP/SAR2/20.09.2017/3P/5C

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