



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :01.08.2017

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THE HONOURABLE MRS.JUSTICE J. NISHA BANU

TR.C.M.P(MD)No.62 of 2017

and

CMP.(MD)No.1616 of 2017

S.Sabira Banu

...Petitioner

Vs.

A.Raja Mohammed

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw and to transfer the O.S.No.260 of 2016 on the file of III Family Court, Chennai and transfer the same to the file of the Family Court, Trichy.

For Petitioner	: Mr.R.Ganesh Prabu
For Respondent	: Mr.M.Murali

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw O.S.No.260 of 2016 pending on the file of the III Family Court, Chennai and transfer the same to the file of the Family Court, Trichy.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 15.10.2015 as per Muslim rituals and Customs. The petitioner and the respondent had been staying at Chennai and the respondent had frequently quarrelled with the petitioner saying that her appearance was not good and thereafter, forcibly sent to her parental house, demanding more dowry. It is stated that on 30.05.2015, the respondent had sent a letter to the petitioner intimating the Talaq with iddat amount, which never received by the petitioner and on 30.05.2016, Talaq was pronounced. The petitioner received summons from the learned III Family Court, Chennai, whereby the petitioner was directed to appear before the Court on 16.12.2016 and 22.01.2017. Accordingly, the petitioner has been appearing before the Family Court and the distance between the parental home of the petitioner and the Family Court is about 350 kilometers. The petitioner has to spent atleast Rs.3,000/- per hearing and that the parents of the petitioner have also in a poor economical condition and therefore, sought for transfer.

3.The learned counsel for the respondent would submit that when



the compromise talk was going on, there was some verbal quarrel between them, which ended in registering an FIR against the petitioner and therefore, he submit that the respondent is ready to pay the travelling expenses of the petitioner.

4. Admittedly, it is not the case that the respondent was attacked in the house of the petitioner. The entire episode taken place in the house of the respondent. Hence, as per the Judgment of the Hon'ble Supreme Court 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)**, it is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference. I am also satisfied with the reasons stated in the affidavit filed in support of this petition.

5. 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, III Family Court, Chennai, is directed to transmit the entire records in O.S.No.260 of 2016 to the file of the Sub Court, Pudukkottai, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Principal Sub Judge, Pudukkottai after obtaining the records on transfer, is directed to dispose of O.S.No.260 of 2016 as expeditiously as possible in accordance with law.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Judge,
III Family Court,
Chennai.

2. The Principal Subordinate Judge,
Pudukkottai.

+1cc to Mr.M.MURALI Advocate in SR. NO.69445

+1cc to Mr.R.GANESH PRABU Advocate in SR. No.69497

RJ2

JS/SV/AAM/SAR.2/11.08.2017/2P-5C