



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :18.07.2017
CORAM
THE HONOURABLE MRS.JUSTICE J. NISHA BANU

TR.C.M.P (MD) No.553 of 2016

WEB COPY

Jabakkani

...Petitioner

Vs.

Thilakar Abragam

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code to withdraw the petition in I.D.O.P.No.18 of 2016 pending on the file of the Hon'ble Family Court, Salem and transfer the same to the Principal Sessions Court, Tirunelveli. (Prayer is amended as per order of this Court, dated 18.07.2017 in CMP(MD)No.1735 of 2017).

For Petitioner : Mr.Ganapathi Subramanian

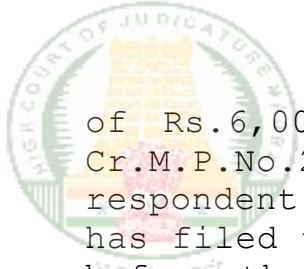
For Respondent : No Appearance

ORDER

The Transfer Civil Miscellaneous Petition is filed to withdraw I.D.O.P.No.18 of 2016 pending on the file of the Family Court, Salem and transfer the same to the Principal Sessions Court, Tirunelveli.

2.The petitioner herein is the wife and the respondent is the husband. The marriage between the petitioner and the respondent was solemnized on 12.05.2014 as per Christian Rites and Customs. At the time of marriage, the parents of the petitioner offered 40 sovereigns osjewels and cash of Rs.2 lakhs and also gave household articles to the respondent. They were blessed with a male child viz., Emanuvel, who was born on 15.02.2015. After that, while both were living together in the matrimonial home at Salem, the respondent had insisted the petitioner to get money from her family members for development of his provisional shop. Due to financial crisis, they were unable to meet the demand of the respondent. Thereafter, the respondent was teasing the petitioner that she is ugly and horrible and also not matched to him. The respondent had pledged all the jewels of the petitioner under the guise of investment with regard to the business and both were living separately.

3.The further case of the petitioner is that she has filed a petition under Domestic Violence Act in D.V.C.No.21 of 2006 before the learned Judicial Magistrate, Valliyur and interim maintenance



of Rs.6,000/- was ordered till the completion of the case in Cr.M.P.No.2968 of 2016 in D.V.C.No.21 of 2016. Till date, the respondent has not complied with the order and now the petitioner has filed the present application for divorce in IDOP No.8 of 2016 before the Family Court, Salem. The petitioner has also received anonymous calls from unidentified person and therefore, the petitioner is not in a position to appear before the Family Court at Salem and that D.V.C.No.21 of 2006 is pending before the Judicial Magistrate Court at Valliyur.

4. When the matter came up for hearing on the earlier occasion, it was referred to mediation and the mediation was not able to succeed.

5. Notice has been served on the respondent. The respondent has neither appeared through his counsel nor in person. Heard the learned counsel for the petitioner and perused the materials available on record.

6. It is well settled law that whenever, the 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.

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, Salem, is directed to transmit the entire records in I.D.O.P.No.18 of 2016 to the file of the Principal Sessions Court, Tirunelveli, within a period of two weeks from the date of receipt of copy of this order.

ii) the learned Principal Sessions Court, Tirunelveli, after obtaining the records on transfer, is directed to dispose of both I.D.O.P.No.18 of 2016 as expeditiously as possible in accordance with law.

No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



To

1.The Judge, Family Court,
Salem.

WEB COPY

2.The Principal Sessions Judge, Tirunelveli.

RJ2

VB/MR/KKR/SAR4/24.08.2017/3P/3C

TR.C.M.P (MD) No.553 of 2016
18.07.2017