

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.6293 of 2018

and

CrI.M.P.No.3171 of 2018

N.Unnikrishnan ... Petitioner
Vs

Deepa Rajendiran ... Respondent

Criminal Original Petition filed under Section 407 of Cr.P.C., praying to Transfer M.C.No.348 of 2013 on the file of the V Additional Family Court, Chennai, to any other Family Court, Chennai.

For Petitioner : Mr.Balaji
for M/s.Thenmozhi Shiva Perumal

For Respondent : Mr.R.Srinivas

O R D E R

This tranfer application has been filed by Unnikrishnan to transfer M.C.No.348 of 2013 from the file of the V Additional Family Court, Chennai, to any other Family Court, Chennai.

2.Heard Mr.Balaji, learned counsel for the petitioner and Mr.R.Srinivas, learned counsel for the respondent.

3.For the sake of convenience, the parties will be referred to by their name. It is the case of Unnikrishnan that he has filed H.M.O.P.No.1343 of 2014, seeking divorce and the same was being tried along with M.C.No.348 of 2013, filed by Deepa Rajendiran under Section 125 of Cr.P.C. On 01.02.2018, H.M.O.P.No.1343 of 2014 was dismissed for default, since Unnikrishnan did not appear and simultaneously, the petition in M.P.No.292 of 2016 in M.C.No.348 of 2013, that was filed by Deepa Rajendiran was allowed by the trial Court.

4. It is the grievance of Unnikrishnan, that the trial Court should not have hastily dismissed the divorce petition filed by him and allowed the Interlocutory application filed by Deepa Rajendiran.

5. In the opinion of this Court, this grievance cannot be a reason for transferring the case to any other Court. The

fact remains that Deepa Rajendiran had filed the maintenance proceedings in the year 2013 itself and only thereafter Unnikrishnan has filed the divorce proceedings. The proceedings under Section 125 of Cr.P.C cannot be kept pending indefinitely.

6.However, Mr.Balaji, learned counsel for Unnikrishnan submitted that Unnikrishnan has filed an application under Section 5 of Limitation Act for condoning the delay in filing the application for setting aside the dismissal for default of H.M.O.P.No.1343 of 2014.

7.Mr.Srinivas, learned counsel for Deepa fairly submitted that he would endorse no objection in condonation of delay application, since he does not want to take advantage of the predicament, in which Unnikrishnan is in.

8. In view of this submission, this Court is of the view that no further order needs to be passed in the transfer application and hence, this transfer application is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ms/gya

To

The V Additional Family Court,
Chennai.

+1cc to Mr.R.Srinivas Advocate SR.No.34762

+1cc to Mr.Thenmozhi Shivaperumal, Advocate SR.No.34753

sm:18.6.2018

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2/2