

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.1041 of 2017
and C.M.P.No.21181 of 2017

Archana

... Petitioner

Vs.

Jagasirpiyan

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.138 of 2016 pending on the file of the Subordinate Court, Mettur, Salem District and transfer the same to the file of the Subordinate Court, Namakkal, Namakkal District, to try along with H.M.O.P.No.309 of 2017 pending on its file.

For Petitioner : Mr.C.Prakasam
For Respondent : M/S.T.K.S.Bharathy Anandraj

O R D E R

This petition is filed to withdraw H.M.O.P.No.138 of 2016 pending on the file of the Subordinate Court, Mettur, Salem District and transfer the same to the file of the Subordinate Court, Namakkal, Namakkal District, to try along with H.M.O.P.No.309 of 2017 pending on its file.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 20.11.2012 as per the Hindu rites and customs. The respondent and his parents harassed the petitioner by demanding dowry. In the wedlock, a male child was born on 04.01.2014. After delivery, the respondent did not take back the petitioner to the matrimonial home and filed H.M.O.P.No.138 of 2016 on the file of the Subordinate Court, Mettur, for divorce, against the petitioner making false allegations. The petitioner has filed H.M.O.P.No.309 of 2017 on the file of the Subordinate Court, Namakkal, for restitution of conjugal rights.

3.According to the petitioner, she is residing in Namakkal along with her minor child. The distance between Namakkal and Mettur is more than 90 kilometers and hence, it is very

difficult for her to travel such a long distance to attend the Court proceedings at Mettur, along with her minor child. Further, she is not having any independent income and hence, it is very difficult for her to meet out the travelling expenses. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.138 of 2016 pending on the file of the Subordinate Court, Mettur, Salem District, to the file of the Subordinate Court, Namakkal, to try along with H.M.O.P.No.309 of 2017 pending on its file.

4.The learned counsel for the respondent submitted that the respondent has denied the averments made in the petition and prayed for dismissal of the transfer petition.

5.Heard the learned counsel for the petitioner as well as respondent and perused the materials available on record.

6.Considering the above contentions of the learned counsel for the petitioner as well as the respondent and well settled judicial pronouncement of 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], the convenience of the wife must be given preference in the matrimonial proceedings. Further, as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

7.Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.138 of 2016 is ordered to be withdrawn from the file of the Subordinate Court, Mettur and transferred to the file of the Subordinate Court, Namakkal, to be tried along with H.M.O.P.No.309 of 2017 filed by the petitioner in order to avoid multiplicity of proceedings and conflicting judgments being delivered by two different Courts. The learned Subordinate Judge, Mettur, is directed to transmit all the records pertaining to H.M.O.P.No.138 of 2016 to the file of the Subordinate Court, Namakkal, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1.The Subordinate Judge,
Mettur, Salem District.

2.The Subordinate Judge,
Namakkal.

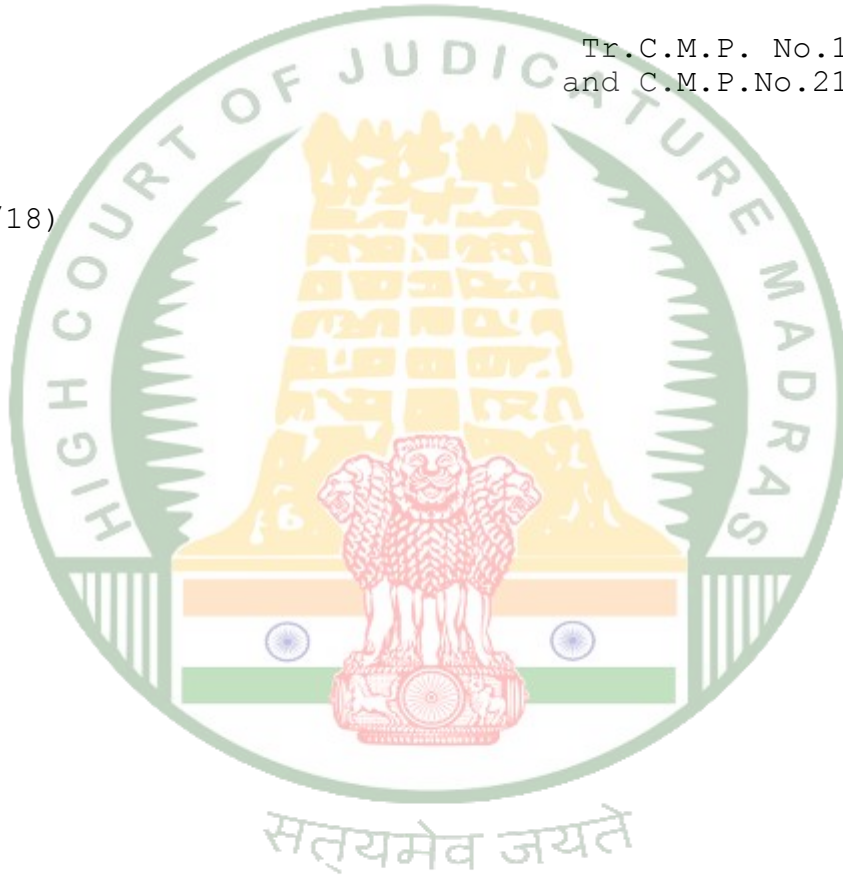
+1cc to Mr.T.K.S.Bharathy Anandraj, Advocate, sr.no.30451

+1cc to Mr.C.Prakasam, Advocate, sr.no.30863

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NA (CO)

RRK (23/05/18)



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