

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.387 of 2017
and C.M.P.No.7742 of 2017

Geetha @ P.Geethanjali

... Petitioner

Vs.

D.Sivakumar

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.3724 of 2011 filed by the respondent and H.M.O.P.No.3307 of 2013 filed by the petitioner, from the file of the Principal Family Court, Chennai and to transfer the same to the file of the District Court, Tiruvallur.

For Petitioner : M/S.Prof.M.Udaya Bhanu

For Respondent : Mr.R.Pandiarajan for
M/S.R.Mahalakshmi

O R D E R

This petition is filed to withdraw H.M.O.P.No.3724 of 2011 filed by the respondent and H.M.O.P.No.3307 of 2013 filed by the petitioner, from the file of the Principal Family Court, Chennai and to transfer the same to the file of the District Court, Tiruvallur.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 13.09.2007 as per Hindu rites and customs. After marriage, they were residing together in the matrimonial home at Avadi, Chennai. On 26.11.2007, respondent went to Kuwait and joined office on 06.12.2007. On 09.02.2008, the petitioner also went to Kuwait and was living with the respondent. After she became pregnant, she came to India for delivery. After giving birth to a female child on 22.04.2009, the respondent did not take the petitioner and minor child to Kuwait and left India without informing the petitioner. While so, the petitioner has received notice in H.M.O.P.No.3724 of 2011 on the file of the Principal Family Court, Chennai, which was filed by the respondent through his power agent, for divorce. All the efforts taken by the petitioner for reunion with the respondent turned futile. Therefore, she filed H.M.O.P.No.3307 of 2013 before the III Additional Family Court, Chennai, for restitution of conjugal rights and the same is now pending before the Principal Family Court, Chennai.

3. When the petitioner and her minor child went to attend the Court proceedings, respondent's younger brother viz., Karthik and his uncle viz., Somasundaram and other rowdy elements threatened the petitioner and her minor daughter to withdraw H.M.O.P. filed by her. Her Advocate rescued her from the rowdy elements, brother and uncle of the respondent. The petitioner gave a complaint before the Flower Bazar Police Station and no action was taken. Again on another date of hearing, the petitioner was threatened by some other persons, for which, the petitioner has given complaint and the same was not taken on file. Therefore, the petitioner filed CrI.O.P. under Section 482 Cr.P.C. to give protection to the petitioner and her minor daughter. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer both the H.M.O.P.No.3724 of 2011 filed by the respondent and H.M.O.P.No.3307 of 2013 filed by the petitioner, from the file of the Principal Family Court, Chennai to the file of the District Court, Tiruvallur.

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

5. From the records, it is seen that this petition is posted before the Tamil Nadu Mediation and Conciliation Centre, attached to this Court, for settlement. The respondent did not appear, since he is residing in Kuwait. In this petition, the respondent did not file counter denying the averments made by the petitioner. In the affidavit filed in support of this petition, the petitioner has stated that on two occasions, she gave complaint against the brother and uncle of the respondent and rowdy elements stating that they threatened her to withdraw the case in H.M.O.P.No.3307 of 2013, which was filed by her, when she attended the Court proceedings. The petitioner has also stated that she filed petition under Section 482 Cr.P.C. before this Court seeking protection for herself and her minor daughter.

6. Considering all the above facts, both the petitions in H.M.O.P.No.3724 of 2011 filed by the respondent and H.M.O.P.No.3307 of 2013 filed by the petitioner are ordered to be withdrawn from the file of the Principal Family Court, Chennai and transferred to the file of the Principal District Court, Tiruvallur and to be tried jointly. The learned Principal Judge, Family Court, Chennai, is directed to transmit all the records pertaining to H.M.O.P.Nos.3724 of 2011 and 3307 of 2013 to the file of the Principal District Court, Tiruvallur, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

kj

To

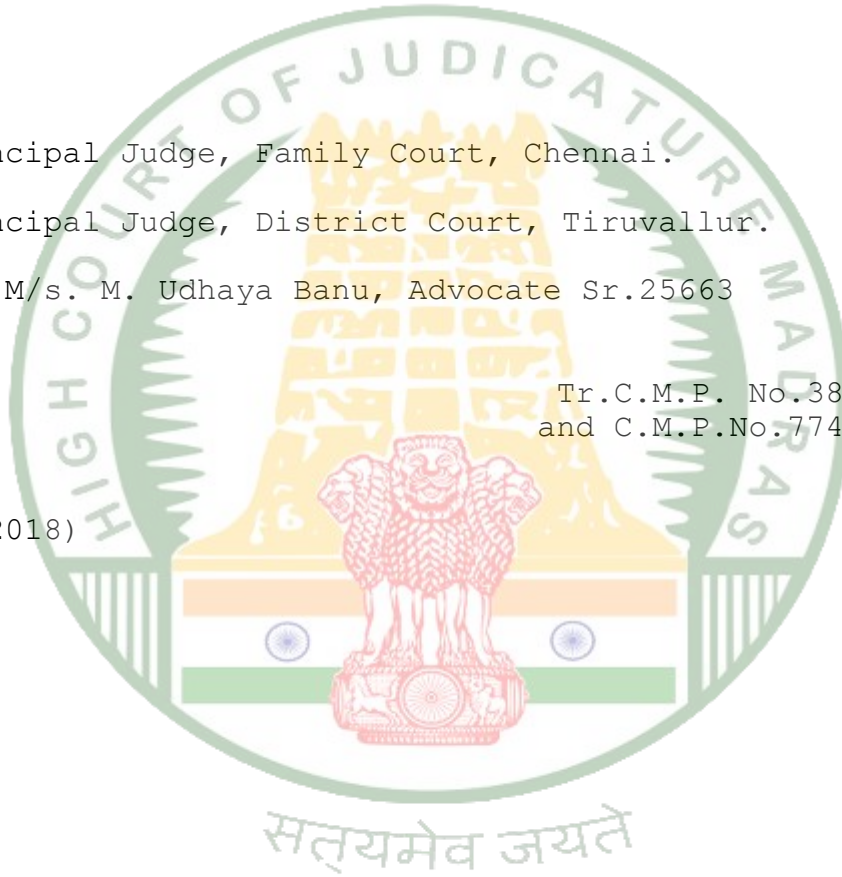
1.The Principal Judge, Family Court, Chennai.

2.The Principal Judge, District Court, Tiruvallur.

+ 1 cc to M/s. M. Udhaya Banu, Advocate Sr.25663

Tr.C.M.P. No.387 of 2017
and C.M.P.No.7742 of 2017

GP(CO)
EU(26/04/2018)



WEB COPY