

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2018

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Tr.C.M.P. No.573 of 2017
and C.M.P.No.12002 of 2017

Sathyavani

... Petitioner

Vs.

Muthukumar

... Respondent

Prayer:-

Petition is filed under Section 24 of C.P.C., to withdraw and transfer all further proceedings in H.M.O.P.No.29 of 2017 pending on the file of the Sub Court, Pattukottai, Thanjavur District and transfer the same to the file of the Sub Court, Ponneri, Thiruvallur District, to try along with H.M.O.P.No.130 of 2017 pending on its file.

For Petitioner : Mr.K.Gangatharan
For Respondent : No Appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.29 of 2017 pending on the file of the Sub Court, Pattukottai, Thanjavur District and transfer the same to the file of the Sub Court, Ponneri, Thiruvallur District, to try along with H.M.O.P.No.130 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 30.03.2003 as per Hindu rites and customs. From the date of marriage, the respondent and his father tortured the petitioner during her stay at matrimonial home. The respondent has left the matrimonial home on 15.12.2016 on the advice of his father without petitioner's knowledge. Hence, the petitioner lodged a complaint on 16.12.2016 before Pappanadu Police Station and also gave a complaint to the Superintendent of Police, Thanjavur, on 20.03.2017. An enquiry was conducted before All Women Police Station, Pattukottai, on 23.03.2017. The petitioner has filed H.M.O.P.No.130 of 2017 on the file of the Sub Court, Ponneri, for restitution of conjugal rights. Whiles, the respondent has filed H.M.O.P.No.29 of 2017 on the file of the Sub Court, Pattukottai, for divorce.

3. According to the petitioner, she is residing at Anuppampattu Village, Ponneri Taluk, Thiruvallur District, along with her aged parents. The distance between Ponneri and Pattukottai is more than 450 kilometres and hence, it will be very difficult for her to attend the Court at Pattukottai, for each and every hearing. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.29 of 2017 pending on the file of the Sub Court, Pattukottai, Thanjavur District, to the file of the Sub Court, Ponneri, Thiruvallur District, to be tried along with H.M.O.P.No.130 of 2017 pending on its file.

4. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondent and his name is printed in the cause list, there is no representation on behalf of the respondent either in person or through counsel.

5. Considering the above contention of the learned counsel for the petitioner 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.

6. Accordingly, the Transfer Civil Miscellaneous Petition is ordered. The petition in H.M.O.P.No.29 of 2017 is ordered to be withdrawn from the file of the Sub Court, Pattukottai, Thanjavur District and transferred to the file of the Sub Court, Ponneri, Thiruvallur District, to be tried along with H.M.O.P.No.130 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, Pattukottai, Thanjavur District, is directed to transmit all the records pertaining to H.M.O.P.No.29 of 2017 to the file of the Sub Court, Ponneri, Thiruvallur District, 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/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

dss/kj

To

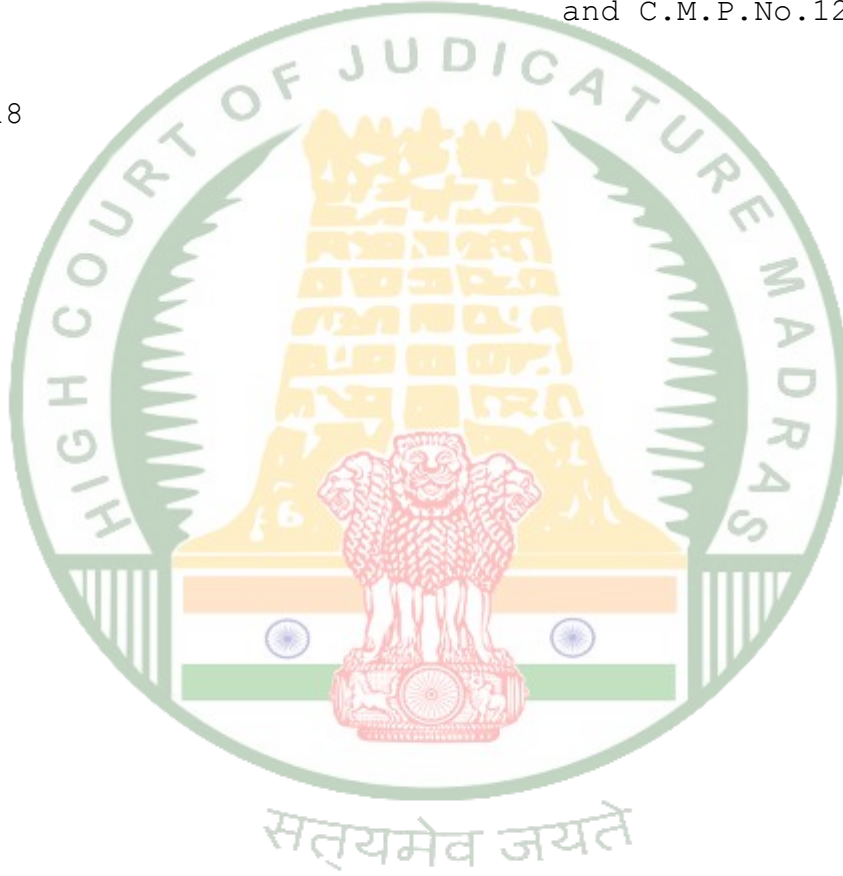
1.The Subordinate Judge,
Pattukottai, Thanjavur District.

2.The Subordinate Judge, Ponneri,
Thiruvallur District.

+1cc to Mr.K.Jahawar Durai, Advocate, S.R.No.34905

Tr.C.M.P. No.573 of 2017
and C.M.P.No.12002 of 2017

SSV(CO)
CS/26/06/18



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