

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.734 of 2017
and C.M.P.No.14989 of 2017

Saral Sathya Kala

... Petitioner

Vs.

S.Arokia Raj

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw I.D.O.P.No.40 of 2017 pending on the file of the Principal District Court, Pudukkottai and transfer the same to the file of the Principal District and Sessions Court, Vellore.

For Petitioner : Mr.G.Punniakoti
For Respondent : No appearance

O R D E R

This petition is filed to withdraw I.D.O.P.No.40 of 2017 pending on the file of the Principal District Court, Pudukkottai and transfer the same to the file of the Principal District and Sessions Court, Vellore.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was solemnised on 14.12.2009 as per R.C.Christian rites and customs, at St.Antony Church at Eluppur, in Pudukkottai District. After marriage, both were living together at Eluppur in Pudukkottai District. A female child was born on 23.11.2010 in the wed lock. The respondent had illicit intimacy with one Annapapu and the same was questioned by the petitioner and due to the same, the petitioner was driven out from the matrimonial home. At the intervention of the elders of both their families, the petitioner joined with the respondent on 21.10.2013. On 21.03.2014, the respondent made an attempt to kill the petitioner and her child by opening the gas cylinder during night hours. With the help of others, she escaped and left the matrimonial home along with her child. The petitioner gave a complaint before All Women Police Station, Vaniyambadi. The petitioner filed a case in C.C.No.14 of 2015 before the Principal District Munsif-cum-Judicial Magistrate, Vaniyambadi, claiming maintenance. The respondent did not appear before the

Court and file counter in C.C.No.14 of 2015. The learned Principal District Munsif-cum-Judicial Magistrate, Vaniyamadi, passed an exparte order on 12.01.2016 directing the respondent to pay the maintenance of Rs.5,000/- to the petitioner and her child from the date of petition. In order to avoid attachment of salary of the respondent, he has filed I.D.O.P.No.40 of 2017 on the file of the Principal District Court, Pudukkottai, for restitution of conjugal rights.

3. According to the petitioner, she is residing along with her minor child in her parental home in Vaniyambadi, Vellore District. The distance between Vaniyambadi and Pudukkottai is more than 500 kilometers. The father of the petitioner is aged about 85 years. No one is available to accompany the petitioner to go to Pudukkottai to attend the proceedings for each and every hearing. In the circumstances, the petitioner has come out with the present Tr.C.M.P. for transfer of I.D.O.P.No.40 of 2017 from the file of the Principal District Court, Pudukkottai, to the file of the Principal District and Sessions Court, Vellore.

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 for him either in person or through counsel.

5. It is not in dispute that the petitioner is residing within the jurisdiction of the District Court, Vellore. The petitioner has stated that she is residing at Vaniyambadi in Vellore District along with her aged parents and hence, she finds it difficult to go to Pudukkottai, which is 500 kilometers away from her residence.

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].

7. Having regard to the submissions made by the learned counsel for the petitioner and the decisions of the Hon'ble Apex Court referred to above, the petition in I.D.O.P.No.40 of 2017 is ordered to be withdrawn from the file of the Principal District Court, Pudukkottai and transferred to the file of the Principal District and Sessions Court, Vellore, within whose jurisdiction the wife is residing, so that she can contest the case on merits without any conveyance or unnecessary expenses for travelling. The learned Principal District Judge,

Pudukkottai, is directed to transmit all the records pertaining to I.D.O.P.No.40 of 2017 to the file of the Principal District and Sessions Court, Vellore, within a period of two weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar (CS V)

//True copy//

Sub Assistant Registrar

kj

To

1.The Principal District Judge
Pudukkottai.

2.The Principal District and Sessions Judge
Vellore.

+1cc to Mr.G.Punniyakotti, Advocate SR.No.24175

Tr.C.M.P. No.734 of 2017
and C.M.P.No.14989 of 2017

VGII (CO)
GN (08/05/2018)

सत्यमेव जयते
WEB COPY