

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.765 of 2017
and C.M.P.No.15628 of 2017

Nisha @ Pasamalar

... Petitioner

Vs.

Shankar

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.118 of 2016 pending on the file of the Subordinate Court, Kancheepuram and transfer the same to the file of the Subordinate Court, Poonamallee.

For Petitioner : Mr.J.William Shakespere
For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.118 of 2016 pending on the file of the Subordinate Court, Kancheepuram and transfer the same to the file of the Subordinate Court, Poonamallee.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 20.08.2014 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living together in the matrimonial home at Manimangalam Village, Sriperumpudur Taluk, Kancheepuram District. In the wedlock, a female child was born on 28.02.2015. The respondent harassed the petitioner by demanding dowry. The respondent's brother and mother also abused the petitioner using filthy language. On 29.02.2016, the respondent, his mother and brother assaulted the petitioner and thrown her out from the matrimonial home. She lodged a police complaint before the Manimangalam Police Station. They advised the respondent to lead a peaceful life with the petitioner. But the respondent filed H.M.O.P.No.118 of 2016 on the file of the Subordinate Court, Kancheepuram, for divorce making false allegations.

3.According to the petitioner, she is residing at Valasaravakkam in Chennai. The distance between Valasaravakkam

and Kancheepuram is 70 kilometers. Hence, it is difficult for her to travel from Valasaravakkam to Kancheepuram along with her minor child to attend the Court proceedings for each and every hearing. She further stated that she has filed a petition under Section 125 Cr.P.C. on the file of the Judicial Magistrate Court, Poonamallee, claiming maintenance. In the circumstances, the petitioner has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.118 of 2016 from the file of the Subordinate Court, Kancheepuram to the file of the Subordinate Court, Poonamallee.

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 him either in person or through counsel.

5.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]. Further as per the provisions of the Hindu Marriage Act, place of residence of wife must be taken into account.

6.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 H.M.O.P.No.118 of 2016 is ordered to be withdrawn from the file of the Subordinate Court, Kancheepuram and transferred to the file of the Subordinate Court, Poonamallee. The learned Subordinate Judge, Kancheepuram, is directed to transmit all the records pertaining to H.M.O.P.No.118 of 2016 to the file of the Subordinate Court, Poonamallee, 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.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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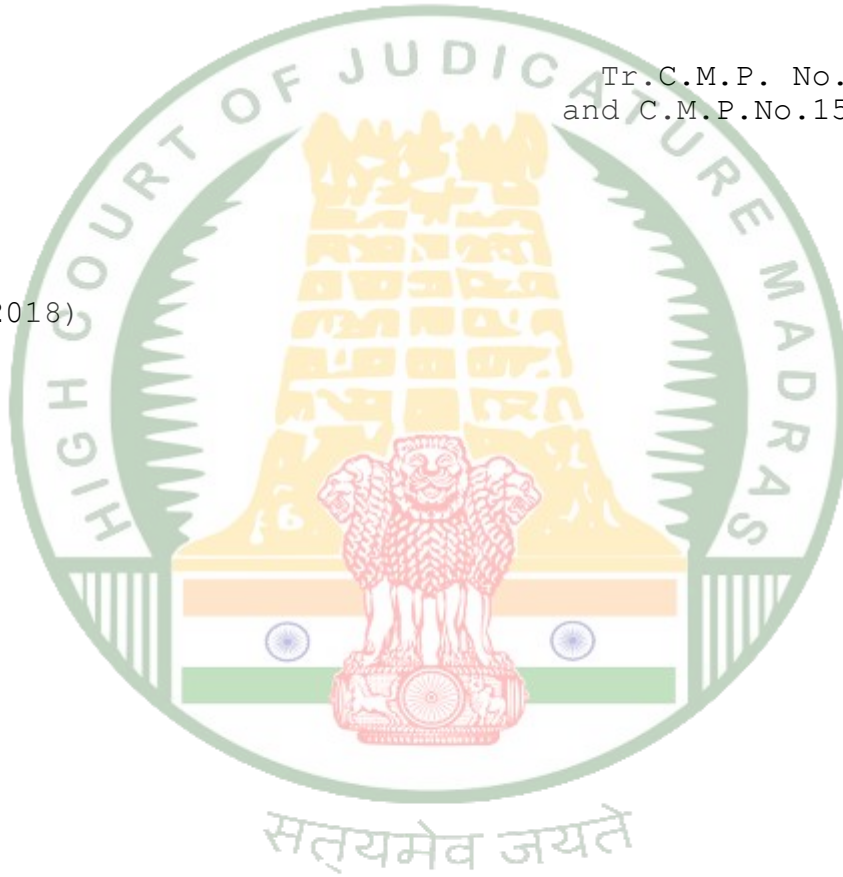
1.The Subordinate Judge
Kancheepuram District

2.The Subordinate Judge, Poonamallee.

+1 CC to Mr.J.William Shakespere, Advocate sr 25055.

Tr.C.M.P. No.765 of 2017
and C.M.P.No.15628 of 2017

MR (CO)
SP (25/04/2018)



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