

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.825 of 2017
and C.M.P.No.17115 of 2017

K.Radha

... Petitioner

Vs.

Kaliyappan @ Chandran

... Respondent

Prayer:- Petition has been filed under Section 24(1)(b)(ii) of C.P.C., to withdraw H.M.O.P.No.53 of 2017 pending on the file of the Subordinate Court, Chengalpattu and transfer the same to the file of the Family Court, Madurai.

For Petitioner : Mr.J.Stanlin

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.53 of 2017 pending on the file of the Subordinate Court, Chengalpattu and transfer the same to the file of the Family Court, Madurai.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 03.06.1996 as per Hindu rites and customs. After marriage, both the petitioner and respondent were living in the matrimonial home at Thiruporur, Kancheepuram District. At the instigation of his parents, the respondent demanded more dowry, ill-treated the petitioner, tortured her and hence, the petitioner left the matrimonial home. The petitioner lodged a complaint before All Women Police Station, Thallakulam, Madurai and the same is pending. The respondent filed H.M.O.P.No.53 of 2017 on the file of the Subordinate Court, Chengalpattu, for divorce against the petitioner making false allegations.

3.According to the petitioner, she is residing in her sister's home in Madurai. The distance between Madurai and Chengalpattu is more than 400 kilometers and hence, it is very difficult for her to travel such a long distance to attend the Court proceedings at Chengalpattu. Further, she is not having any independent income and she is depending on her sister for her day-to-day expenses. In the circumstances, the petitioner

has come out with the present Tr.C.M.P. to transfer H.M.O.P.No.53 of 2017 pending on the file of the Subordinate Court, Chengalpattu, to the file of the Family Court, Madurai.

4.Heard the learned counsel for the petitioner and perused the materials available on record. Notice sent to the respondent through Court was returned with an endorsement as 'refused'. Though notice was served on the respondent privately and his name is printed in the cause list, there is no representation on behalf of him 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.53 of 2017 is ordered to be withdrawn from the file of the Subordinate Court, Chengalpattu and transferred to the file of the Family Court, Madurai. The learned Subordinate Judge, Chengalpattu, is directed to transmit all the records pertaining to H.M.O.P.No.53 of 2017 to the file of the Family Court, Madurai, 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/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge, Chengalpattu.

2.The Judge, Family Court, Madurai.

+ 1 cc to Mr.Stanlin, Advocate Sr.28596

Tr.C.M.P. No.825 of 2017
and C.M.P.No.17115 of 2017

(CS-DR)

EU (04/05/2018)

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