

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.737 of 2015

and M.P.No.1 of 2015

Deepa

... Petitioner

Vs.

Senthilkumar

... Respondent

Prayer:- Petition has been filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.111 of 2015 pending on the file of the Subordinate Court, Attur and transfer the same to the file of the Subordinate Court, Tiruchengode, Namakkal District.

For Petitioner : Mr.C.Kulanthaivel

For Respondent : No appearance

O R D E R

This petition is filed to withdraw H.M.O.P.No.111 of 2015 pending on the file of the Subordinate Court, Attur and transfer the same to the file of the Subordinate Court, Tiruchengode, Namakkal District.

2. The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 10.07.2011 as per Hindu rites and customs. In the wed lock, a female child was born on 04.12.2012. Due to difference of opinion between the petitioner and respondent, they are living separately. The respondent filed H.M.O.P.No.111 of 2015 on the file of the Subordinate Court, Attur, for divorce making false allegations.

3. According to the petitioner, she is residing in her maternal uncle's house at Tiruchengode along with her minor daughter. On the date of hearing on 28.09.2015, when the petitioner appeared before the Subordinate Court, Attur, the respondent along with rowdy elements threatened the petitioner and challenged her that he will take away the life of the petitioner, if she comes to Attur again. She also stated that the distance between Attur and Tiruchengode is more than 100 kilometers and there is no direct bus facility from Tiruchengode to Attur. Hence, it is difficult for her to attend the Court proceedings at Attur. In the circumstances, the petitioner has come out with the present Tr.C.M.P. for transfer of

H.M.O.P.No.111 of 2015 from the file of the Subordinate Court, Attur, to the file of the Subordinate Court, Tiruchengode, Namakkal District.

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].

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.111 of 2015 is ordered to be withdrawn from the file of the Subordinate Court, Attur and transferred to the file of the Subordinate Court, Tiruchengode, Namakkal District. The learned Subordinate Judge, Attur, is directed to transmit all the records pertaining to H.M.O.P.No.111 of 2015 to the file of the Subordinate Court, Tiruchengode, Namakkal District, 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(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge
Attur.

2.The Subordinate Judge
Tiruchengode, Namakkal District.

+1 cc to M/s.C.Kulanthaivel Advocate sr 25097

Tr.C.M.P. No.737 of 2015
and M.P.No.1 of 2015

mr(co)

aa03/05/2018