

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2018

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Tr.C.M.P. No.7 of 2018
and C.M.P.No.67 of 2018

G.Indhumathi

... Petitioner

Vs.

A.Varadharaj

... Respondent

Prayer:- Petition is filed under Section 24 of C.P.C., to withdraw H.M.O.P.No.107 of 2017 pending on the file of the Sub Court, Harur and transfer the same to the file of the Family Court, Erode or Sub Court, Tiruchengode.

For Petitioner : Mr.Kavirinadan
For Respondent : Mr.C.Prabakaran

O R D E R

This petition is filed to withdraw H.M.O.P.No.107 of 2017 pending on the file of the Sub Court, Harur and transfer the same to the file of the Family Court, Erode or Sub Court, Tiruchengode.

2.The petitioner is the wife and respondent is the husband. The marriage between the petitioner and respondent was conducted on 05.03.2012 as per Hindu rites and customs. In the wedlock, a female child was born on 28.02.2013 and the child died on 14.04.2017. The respondent and his family members demanded more dowry from the petitioner, ill-treated her and prevented her from talking to her parents. Therefore, she left the matrimonial home and is living along with her parents at Tiruchengode. The respondent filed H.M.O.P.No.107 of 2017 on the file of the Sub Court, Harur, for divorce against the petitioner.

3.According to the petitioner, she is residing along with her parents at Tiruchengode. The distance between Tiruchengode and Harur is more than 350 kilometers up and down and hence, it will be very difficult for her to travel such a long distance to attend each and every hearing at Harur. The petitioner has also stated that she is afraid of attending the Court at Harur, due to the threat made by the respondent. As per an amendment to Section 19(iii)(a) of the Hindu Marriage Act, the residence of

wife must be given preference. For the above reason, the petitioner has come out with the present Transfer Civil Miscellaneous Petition to transfer H.M.O.P.No.107 of 2017 pending on the file of the Sub Court, Harur, to the file of the Family Court, Erode or Sub Court, Tiruchengode.

4.The respondent filed counter affidavit and denied all the averments made in the petition. The respondent made various allegations against the petitioner including adultery. According to the respondent, the petitioner has voluntarily left the matrimonial home without informing the respondent or her parents along with one Giri by taking all the jewels and a sum of Rs.1,50,000/- without the knowledge of respondent on 21.07.2017. The petitioner gave a false complaint against the respondent to the Inspector of Police, Tiruchengode Police Station. If the respondent comes to Tiruchengode to attend the hearing, he will be threatened and assaulted by petitioner's father. The petitioner and her parents were residing in a village near Morappur till recently and only to harass the respondent, the petitioner filed the present Transfer Petition and prayed for dismissal of the Transfer Petition.

5.Heard the learned counsel for the petitioner as well as respondent and perused the materials available on record.

6.The petitioner and the respondent have made various allegations against each other. The petitioner has stated that if she comes to Harur to attend the hearing, she will be threatened by the respondent and also it will be very difficult for her to travel for more than 350 kilometers up and down. The respondent in the counter affidavit apart from making various allegations against the petitioner, has stated that the petitioner has given false complaint against him and if he comes to attend the Court at Tiruchengode, the petitioner's father will assault the respondent.

7.Considering the allegations made by both the petitioner and respondent against each other with regard to threat and assault, in the interest of justice and convenience of both the parties, the petition in H.M.O.P.No.107 of 2017 is ordered to be withdrawn from the file of the Sub Court, Harur and transferred to the file of the Sub Court, Sankari. The learned Subordinate Judge, Harur, is directed to transmit all the records pertaining to H.M.O.P.No.107 of 2017 to the file of the Sub Court, Sankari, within a period of two weeks from the date of receipt of a copy of this order.

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

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

LPP/kj

To

1. The Subordinate Judge, Harur.

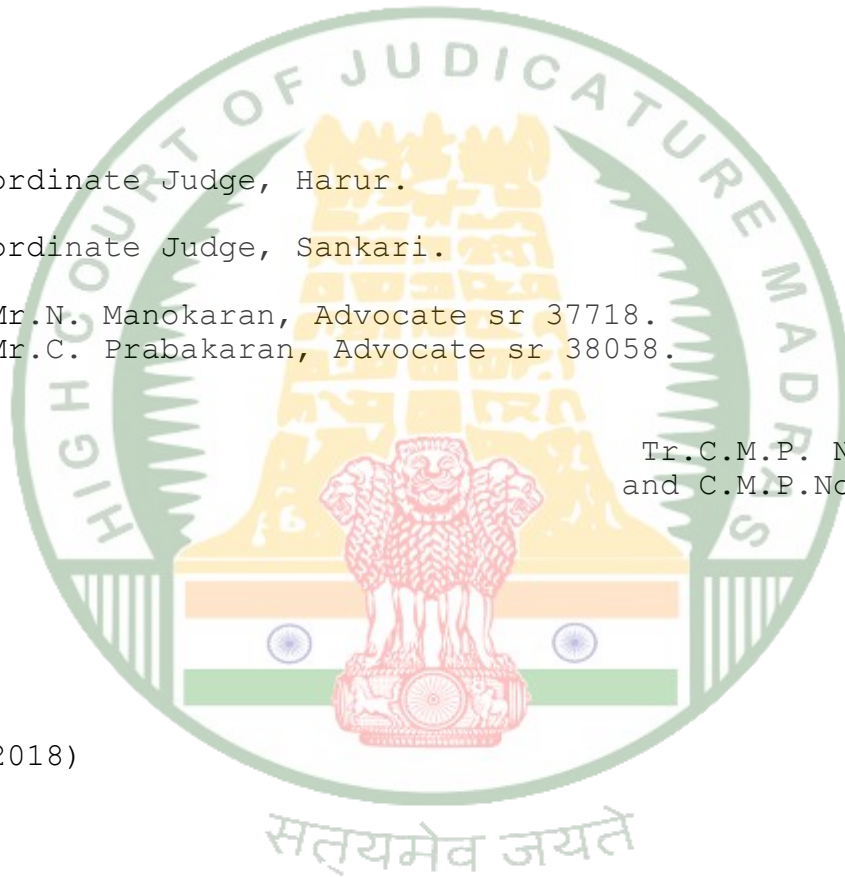
2. The Subordinate Judge, Sankari.

+1 CC to Mr. N. Manokaran, Advocate sr 37718.

+1 CC to Mr. C. Prabakaran, Advocate sr 38058.

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SP(29/06/2018)



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