

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.28434 of 2017

and

MP.No.16148 of 2017

M.Rajasurendar @
Rajamurthi

... Petitioner

Vs

E.Revathi

.... Respondent

Prayer:- Criminal Original Petition filed under Sections 407 and 482 Cr.P.C., to withdraw the case M.C.No.6 of 2017 on the file of District Munsif cum Judicial Magistrate, Kodumudi and to transfer the same to the file of Family Court, Erode to be tried along with FCOP.No.354 of 2016 on the file of Family Court, Erode.

For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondent : M/s.K.Karthikeyan

ORDER

For the sake of convenience, the parties are referred to by their name.

2. Revathi got married Rajasurendar on 15.09.2013 and they have one child through their wedlock. Their matrimonial life ran into rough weather resulting in the spouses getting estranged. Revathi has filed a case in MC.No.6 of 2017 under Section 125 Cr.P.C. before the District Munsif cum Judicial Magistrate, Kodumudi against Rajasurendar claiming maintenance for herself and her minor child. Revathy has also filed divorce proceedings in FCOP.No.222 of 2017 before the Family Court, Erode. Rajasurendar has filed FCOP.No.354 of 2016 before the Family Court, Erode, for restitution of conjugal rights. While so, Rajasurendar is before this Court seeking transfer of MC.No.6 of 2017 to the Family Court, Erode.

3. Heard the learned counsel for the parties.

4. A proceedings under Section 125 Cr.P.C. can be initiated in the Court of Magistrate within whose jurisdiction the wife resides. In this case, Revathi is residing within the jurisdiction of the Judicial Magistrate, Kodumudi. Therefore, she has rightly filed the maintenance application before the District Munsif-cum-Judicial Magistrate, Kodumudi. However, admittedly Revathi has also filed divorce proceedings in FCOP.No.222 of 2017 which is pending on the file of the Family Court, Erode. The petition for restitution of conjugal rights in FCOP.No.354 of 2016 that has been filed by Rajasurendar is also pending on the file of the Family Court, Erode.

5. The learned counsel for Revathi fairly conceded that he has no objection for the maintenance proceedings being transferred to the Family Court, Erode, since the Family Court has the jurisdiction to entertain the petition under Section 125 Cr.P.C.

6. In such view of the matter, this Court directs the learned District Munsif-cum-Judicial Magistrate, Kodumudi, to transfer the case in MC.No.6 of 2017 to the file of the Family Court, Erode within a period of two weeks from the date of receipt of a copy of this order. The Family Court, Erode is directed to take on file the transferred case and deal with the same along with FCOP.No.354 of 2016 and FCOP.No.222 of 2017. It is open to Revathi to file an application for interim maintenance before the Family Court, Erode.

7. With the above directions, this petition is allowed. Consequently, connected Crl.MP is closed.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

lok/cad

To

1. The District Munsif-cum-Judicial Magistrate,
Kodumudi

2. The Family Court, Erode

+1 CC to Mr.S. Kaithamalaikumaran, Advocate sr 26210.

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SP(18/04/2018)