

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2018

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.OP No.2041 of 2017  
and  
CrI.M.P.No.1481 of 2017

N.Mohan

Petitioner

vs.

1.S.Gayathri  
2.Minor Rubeshkumar  
3.Minor Samanthika  
4.Minor Sandhipani  
(Respondents 2 to 4 (minors)  
represented by guardian  
mother 1<sup>st</sup> respondent)

Respondents

PRAYER: Criminal Original Petition filed under Section 407 of the Code of Criminal Procedure, to withdraw M.C.No.7 of 2016 on the file of District Munsif cum Judicial Magistrate, Ambur and transfer the same to the file of the I Additional Family Court, Chennai.

For Petitioner : Mr.P.Krishnan

For Respondent : Mr.D.Thirumoorthy

ORDER

This petition has been filed seeking for transfer of proceedings pending in M.C.No.7 of 2016, on the file of the District Munsif cum Judicial Magistrate, Ambur.

2.It is seen from records that M.C.No.7 of 2016 has been filed by the 1st respondent seeking for maintenance for herself and to her three minor children. This petition is now sought to be transferred from the file of the Judicial Magistrate, Ambur to the Ist Additional Family Court, Chennai.

4.The learned counsel for the petitioner would submit that the 1st respondent had gone to the extent of assaulting the mother of the petitioner and a criminal case was also given

against the 1st respondent. The learned counsel would further submit that the petitioner will not be able to get a fair trial before the District Munsif cum Judicial Magistrate, Ambur, since the 1st respondent and her family members are highly influential persons and they would not allow to conduct the proceedings in a peaceful manner.

5.The learned counsel for the respondent would submit that till date, the petitioner has not paid any maintenance to the 1st respondent or to the children, and the respondents are finding it very difficult to run the day today life. The learned counsel would further submit that the criminal complaint that was given against the 1st respondent has also ended up in acquittal by judgment dated 18.01.2017, on the file of the Judicial Magistrate No.I, Tirupattur.

6.Considering the facts and circumstances of the case, this Court is not inclined to transfer the proceedings pending in M.C.No.7 of 2016. The petitioner shall be represented by a counsel before the Court below and the petitioner shall appear before the Court as and when directed by the Court below. The Court below is directed to conclude the proceedings in M.C.No.7 of 2016, on the file of District Munsif cum Judicial Magistrate, Ambur, within a period of three months from the date of receipt of a copy of this order.

Criminal Original Petition is disposed of with the above direction. Consequently, the connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KP

To

- 1.The District Munsif cum Judicial Magistrate, Ambur.
- 2.-do- through the Chief Judicial Magistrate, vellore.
- + 1 CC to Ms.S.P.Arthi, Advocate SR NO 77268

CrI.O.P. No.2041 of 2017

VD[CO]  
SSM/30.11.2018