

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.16600 of 2017

and

Crl.M.P.Nos.10203 & 10204 of 2017

1.Sathiyaseelan  
2.Ramasamy  
3.Thavamani

...Petitioners

Vs.

Preethi

...Respondent

PRAYER: Criminal Original Petition filed under Section 407 of the Code of Criminal Procedure, to withdraw the D.V.C No.1 of 2017 on the file of the learned Judicial Magistrate Court, Neyveli and transfer the same to the file of the learned I Additional Sub-Court, Villupuram for joint trial with the H.M.O.P No.79 of 2015 and grant such other appropriate reliefs in the circumstances of the case.

For Petitioners : Mr.Sudha Ramalingam

For Respondent : Mr.R.Selvakumar

O R D E R

This petition has been filed seeking to transfer the proceedings pending in D.V.C No.1 of 2017 on the file of the learned Judicial Magistrate Court, Neyveli, to the file of the learned I Additional Subordinate Court, Villupuram, wherein H.M.O.P No.79 of 2015 is pending between the 1<sup>st</sup> petitioner and the respondent.

2. The learned counsel for the petitioners would submit that there are at least three proceedings that are pending between the same parties. Apart from the proceedings under the Domestic Violence Act and H.M.O.P No.79 of 2015, there is one more suit that is pending in O.S No.17 of 2015 on the file of the District Court, Namakkal. The learned counsel would submit that it will be to the convenience of the parties if both the proceedings are sent before the same Court, so that the parties

can let in evidence and can attend the proceedings before the same Court, instead of moving from one Court to another Court at various Districts.

3. The learned counsel for the respondent submits that the Domestic Violence Petition can be transferred to the file of the learned I Additional Subordinate Court, Villupuram. However, learned counsel would submit that the respondent is completely depending on her parents and there is a small kid to be taken care by the respondent. That apart, the learned counsel would also submit that the 1<sup>st</sup> petitioner is working in BPO Division of TCS and therefore, he is having sufficient means to maintain the respondent and the child.

4. This Court questioned the learned counsel for the petitioners as to whether the proceedings under the Domestic Violence Act can be sent to the Civil Court and whether a Civil Court will have the jurisdiction to entertain and try such a petition. The learned counsel for the petitioners brought to the notice of this Court Section 26 of the Protection of Women from the Domestic Violence Act, 2005. Section 26(1) of the said act is extracted here under:-

" 26. Relief in other suits and legal proceedings.- (1) Any relief available under Sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a Civil Court, Family Court or a Criminal Court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act."

5. It is clear from the above that any relief that is available under Sections 18, 19, 20, 21 and 22 may also be sought for in any legal proceedings, before the Civil Court. The whole purpose being that the parties should not be facing multiple proceedings before different Courts and it will be in the interest of the parties to consolidate all the proceedings to be tried before a Single Court. Therefore, this Court is convinced that the Domestic Violence Petition, which is pending before the Judicial Magistrate Court, Neyveli, can be transferred to the file of the learned I Additional Subordinate Court, Villupuram and the said Court will have jurisdiction to try the petition by virtue of Section 26(1) of the Act.

6. Insofar as the maintenance is concerned, as an interim measure, this Court directs the 1<sup>st</sup> petitioner to pay Interim Maintenance of Rs.7,500/- (Rupees seven thousand five hundred only) to the respondent starting from November 2018 onwards. The Interim Maintenance for the month of November

shall be paid directly to the respondent on or before 22.11.2018. The Interim monthly Maintenance for the subsequent months shall be paid directly to the respondent by the 1<sup>st</sup> petitioner on or before the 10<sup>th</sup> of every month. It is made clear that the 1<sup>st</sup> petitioner shall pay this Interim Maintenance amount without prejudice to the contentions that are raised by the 1<sup>st</sup> petitioner in the pending proceedings.

7. In the result, this Criminal Original Petition is allowed, the proceedings in D.V.C No.1 of 2017 is transferred from the file of the Judicial Magistrate Court, Neyveli to the file of the I Additional Subordinate Court, Villupuram. The learned I Additional Subordinate Judge, Villupuram, is directed to conduct simultaneous trial in D.V.C No.1 of 2017 and H.M.O.P No.79 of 2015. The proceedings shall be completed within a period of four months from the date of receipt of a copy of this order. In the meantime, the 1<sup>st</sup> petitioner shall pay the Interim Maintenance amount fixed by this Court, without fail directly to the respondent every month. Consequently connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate,  
Neyveli.

2.The I Additional Subordinate Court,  
Villupuram.

3.The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.R.Selvakumar, Advocate sr.no.16600

+2cc to Mr.Sudha Ramalingam, Advocate sr.no.77368

CRL.O.P.No.16600 of 2017

NR 16/11/2018