

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.12.2018

PRONOUNCED ON: 21.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

TR.C.M.P.No.823 of 2018

and

CMP.No.20242 of 2018

S.Saranya

.. Petitioner

Vs.

S.Balaji

...Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 CPC to withdraw MOP.No.467 of 2018 from the file of the Family Court, Puducherry and transfer the same to the Family Court, Karaikal.

For petitioner : Mr.Sureshbabu for Mr.P.Parthiban

For respondent : Mr.Prakash Adiapadam

ORDER

This Transfer Civil Miscellaneous Petition has been filed to withdraw MOP.No.467 of 2018 pending on the file of learned Judge, Family Court, Puducherry and to transfer the same to the file of the learned Judge, Family Court, Karaikal.

2. The petitioner is the wife and the respondent is her husband. The marriage between the petitioner and the respondent was solemnized on 23.02.2017 at JSK Thirumana Mandapam, Thiruvanthipuram, Cuddalore as per Hindu rites and customs. After the marriage, both the petitioner and the respondent lived together at Akkaraivattam, Karaikal. After some time from the date of marriage, due to the difference of opinion arose between the petitioner and the respondent, and also due to the continuous abuse made by the respondent, the petitioner left the matrimonial home. As of now, the petitioner was working as a Woman Police Constable at All Women Police Station, Karaikal. At the same time, the respondent has presently working as a Mazdoor at Karaikal. After leaving the matrimonial home on

09.03.2018, the petitioner lodged a complaint against the respondent and his family members. Further, a case in Crime No.2 of 2018 has been registered under Sections 498(a), 294(b), 506(ii) r/w 34 IPC against them.

3. In continuous to the above events, the respondent filed an application under Section 13(1)(ia) & 13(1)(iii) of the Hindu Marriage Act 25/1955, seeking the relief of annulling the marriage happened between them on 23.02.2017. The said application is now pending on the file of the learned Judge, Family Court, Puducherry in MOP No.467 of 2018. In the said circumstances, the petitioner approached this Court by way of filing the present petition to transfer the said proceedings pending on the file of the learned Judge, Family Court, Puducherry to the file of learned Judge, Family Court, Karaikal.

4. According to the petitioner, the distance between Puducherry and Karaikal is about 150 kilometers. Being an employed lady, it is very difficult to her in attending the Court proceedings at Puducherry, thereby, if the case is transferred from Puducherry to Karaikal, it is very convenient to the petitioner for effective participation in the trial proceedings. It is further contended that the respondent is now working as Mazdoor at 'Dharsan Lodge' situated at Thirunallaru near Karaikal.

5. Per contra, by filing counter affidavit, the respondent denied all the allegations levelled against him by the petitioner. According to him, it is not a difficult task to the petitioner in attending the Court proceedings at Puducherry.

6. Heard, Mr.Sureshbabu, learned counsel appearing for the petitioner and Mr.Prakash Adiapadam, learned counsel appearing for the respondent.

7. In respect to the first contention raised by the learned counsel appearing for the petitioner, though the respondent is working at Karaikal, no relevant documents were produced on the side of the respondent to prove the said fact. In other wise, in the affidavit filed by the petitioner as well in the counter affidavit filed by the respondent respectively, both of them made very serious allegations against each other. Further, the averments made in the counter affidavit and the affidavit filed by the petitioner and the respondent will disclose that the respondent and his family are facing too much of allegations at the instance of a complaint lodged by the petitioner. However, since the allegations are pertaining to the matrimonial life of the petitioner and the respondent that has to be dealt with only at the time of trial before the Court

below. The only issue raised in this petition is whether the petitioner is projected sufficient cause for allowing this petition. The only reason stated by the petitioner is being a lady, it is difficult to her in attending the Court proceedings at Puducherry. The said submission is nothing but a genuine reason for allowing this petition.

8. On this occasion, it is relevant to refer the observation of the Hon'ble Apex Court reported in *Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta* reported in 2008(9) SCC 353 and in *Sumita Singh Vs. Kumar Sanjay and another* reported in AIR 2002 SC 396, wherein, the Hon'ble Apex Court has held that the convenience of the wife must be given preference in the matrimonial proceedings. Apart from that there are enabling provisions under the Hindu Marriage Act that the convenience of wife must be taken into account for disposing of this petition. In view of the above, this Court is inclined to allow this petition.

9. Accordingly, this petition is allowed. On going through the particulars of employment on either side, it is relevant to give some direction to the trial Court for early disposal. The learned Judge, Family Court, Puducherry is directed to transmit all the records pertaining to M.O.P.No.467 of 2018 to the file of Family Court, Karaikal within a period of two weeks from the date of receipt of a copy of this order. On receipt of such records, the learned Judge, Family Court, Karaikal, is directed to dispose of the case preferably within a period of four months. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judge, Family Court, Puducherry
2. The Judge, Family Court, Karaikal

TR.C.M.P.No.823 of 2018

KAK(10/01/2019)