

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Tr.C.M.P.No.835 of 2018
and C.M.P.No.20686 of 2018

A.Mohammed Sahbeer

..Petitioner

versus

K.Nazreen

..Respondent

Prayer: Petition is filed under Section 24 of C.P.C., to withdraw O.S.No.21 of 2018 pending on the file of the Family Court, Pondicherry and transfer the same to the file of the Family Court, Yanam.

For Petitioner : Mr.V.Ramana Reddy

O R D E R

This Transfer Civil Miscellaneous Petition has been filed to withdraw O.S.No.21 of 2018 pending on the file of the Family Court, Pondicherry and transfer the same to the file of the Family Court, Yanam.

2. The petitioner is the husband and respondent is the wife. The marriage between the petitioner and respondent was solemnized on 17.01.2016 at Matharasa Nikkah Mahal, Vadakarai Elayaloor Village, Tharangambadi Taluk, Nagapattinam District, as per Muslim customs and ceremonies. After the marriage, both the petitioner and respondent are went to United Kingdom, wherein the respondent completed her higher studies in medicine, further, she was conceived in the month of October 2016. After knowing the pregnancy, the petitioner took the respondent to his parental home at Singapore. During her advanced stage of pregnancy the petitioner's mother has also accompanied with the respondent, ultimately she delivered a male child on 20.05.2017. After some time, from the date of delivery, both the petitioner and respondent went to United Kingdom along with the petitioner's mother and new born baby. In United Kingdom, after passing her higher studies, the respondent collected the certificates from the concerned Institution and without informing anything to the petitioner, she returned to India along with her mother and now, living with her parents at Pondicherry. Subsequent to that, she filed a suit against the

respondent for dissolution of marriage in O.S.No.21 of 2018, now the said suit is pending before the Family Court, Pondicherry.

3. After filing the suit, in the Family Court, Pondicherry, the respondent filed one another petition under Section 7, 10 & 24 of the Guardians and Wards Act, 1980 for appointing her as guardian to the child. The said petition is now pending before the Same Court as G.O.P.No.13 of 2018. In the said circumstances, the petitioner has approached this Court with the present Transfer Civil Miscellaneous Petition seeking the relief as stated earlier in the first paragraph of this order.

4. According to the petitioner, on 31.10.2018 when the petitioner came to the Family Court, Pondicherry, for attending the Court proceedings along with his parents, the family members of the respondent and respondent abused the petitioner and threatened him not to participate in the future proceedings. Further, some unknown rowdy elements threatened him with dire consequences, so, the petitioner on seeing the attitude of the respondent filed this petition as stated above.

5. Today, when this petition is came up for admission before this Court, the learned counsel appearing for the petitioner would submit that for the above reasons, this petition may be allowed.

6. Now, considering the arguments advanced by the learned counsel appearing for the petitioner, it is necessary to see whether any relevant documents are produced by the petitioner in respect to the threat made by the respondent, on verification no such relevant document is enclosed with the petition to prove that the respondent made life threat to the petitioner. So, without any relevant documents, this Court cannot come to the conclusion that the contention raised by the petitioner in the affidavit is true one.

7. In general, in order to settle the issues arising in these type of cases, it is relevant to refer the judgments of our Honourable Apex Court 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. Since the learned counsel appearing for the petitioner himself admitted that, the respondent is the resident of Pondicherry, her convenience must be taken into account for disposing this petition.

8. Apart from that, this petition has been filed by the petitioner to transfer the entire proceedings from Pondicherry

to Yanam. Admittedly, the distance between Pondicherry and Yanam is more than 590 kms. Since the respondent is the resident of Pondicherry, it is very difficult to her in attending the Court proceedings in Yanam, thereby, I am of the considered opinion that allowing the prayer sought for by the petitioner will cause much prejudice to the respondent. Accordingly, this petition filed by the petitioner is not having any merits and the same is liable to be dismissed.

9. In the result, the Transfer Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

sri
To

1. The Judge, Family Court, Pondicherry.
2. The Judge, Family Court, Yanam.

+1 CC to Mr.V.Ramana Reddy, Advocate sr 79865

Tr.C.M.P.No.835 of 2018

SSI (CO)
SP(08/01/2019)

सत्यमेव जयते

WEB COPY