



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.26789 of 2018
and Cr1.M.P.No.15435 of 2018

1.Thayalraj
2.Chinnasamy
3.Udayarani
4.Madhun Rajkumar

... Petitioners

Vs.

Sudha

...Respondent

PRAYER: This Criminal Original Petition has been filed under Section 407 of Criminal Procedure Code, to withdraw the D.V.O.P.No. 4 of 2018 on the file of the Court of the Judicial Magistrate Court, No.III, Erode and transfer the same to the file of the Judicial Magistrate Court, Coimbatore.

For Petitioners : Mr.S.Thangavel

For Respondent : Mr.M.Guruprasad

O R D E R

This petition has been filed seeking to transfer the proceedings in DVOP NO. 4 of 2018, pending before the Judicial Magistrate NO-III, Erode.

2 It is seen from the records that there is already a dispute pending in HMOP No.1710 of 2017 between the same parties and by virtue of the order passed by this Court dated 11.09.2018, it was transferred to the file of the Principal Sub-Court, Tiruppur. The respondent has filed DVOP No.4 of 2018, before the Judicial Magistrate Court No.III Erode.

3 The learned counsel for the petitioners would submit that this domestic violence petition can also be transferred to the Principal Sub-Court Tiruppur, since the parties are already conducting the proceedings before the said Court in HMOP No.1710 of 2017.



4 The learned counsel for the respondent would submit that the domestic violence petition has been filed before the Jurisdictional Magistrate Court and there is no ground of interfere with the said proceedings. The Learned counsel would further submit that just because HMOP No. 1710 of 2017 is pending before the Principal Sub-Court, Tiruppur, that will not give a ground to the petitioner to get a DVOP proceedings also to be transferred to the same Court. The transfer was vehemently opposed by the learned counsel for the respondent.

5 This Court has carefully considered the submissions made on either side. The fact remains that HMOP NO.1710 of 2017, between the same parties is pending before the Principal Sub-Court, Tiruppur. For the purpose of conducting these proceedings, the parties herein would have engaged a counsel. Therefore, it will be more convenient for the parties to agitate the DVOP petition also before the same Court. That apart, If different Courts are trying different petitions between the same parties, it will unnecessarily lead to multiplicity of proceedings. In the considered view of this Court, it will be in the interest of both the parties if the domestic violence petition is also transferred to the Principal Sub-Court, Tiruppur, so that the same Court will have an opportunity to consider all the disputes pending between parties.

6 It is seen that the marriage had taken place between the parties on 28.11.2014 and the parties are at loggerheads for quite some time. Therefore, this Court is of the considered opinion that some interim maintenance should be paid by the first petitioner to the respondent. This maintenance can be paid without prejudice to the right of the first petitioner in the pending proceedings. Even if an independent maintenance petition is moved by the respondent against the first petitioner, this interim maintenance will be taken into account at the time of fixing the amount of maintenance.

7 In view of the above, the proceedings pending in DVOP No.4 of 2018, on the file of the Judicial Magistrate Court-III, Erode, is withdrawn and transferred to the file of the Principal Sub-Court, Tiruppur. The learned Judicial Magistrate No.III, Erode is directed to immediately send the case records to the Principal Sub Court Tiruppur. The first petitioner is directed to pay a monthly maintenance of Rs.5,000/- to the respondent on or before the 5th of every English calender month, starting from January 2019. This payment shall be done without prejudice to the right of the first petitioner and purely as an interim arrangement. Immediately on the transfer of the case records to the Principal Sub Court Tiruppur, the presence of petitioners 2 to 4 shall be dispensed with and they shall be represented by



the counsel and they should be present before the Court as and when required by the Court. The first petitioner shall appear before the Court below during the hearing dates.

WEB COPY

8 Accordingly, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mpa/rpl

To

- 1.The Judicial Magistrate, No.III, Erode.
- 2.The Judicial Magistrate, Coimbatore.
- 3.The Principal Subordinate Judge, Tiruppur.

+1cc to Mr.S.Thangavel, Advocate Sr.85410
+1cc to Mr.M.Guruprasad, Advocate Sr.85600

CrI.O.P.No.26789 of 2018
and CrI.M.P.No.15435 of 2018

srg 10/01/2019