



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.C.M.P (MD) .No.35 of 2018
and
C.M.P (MD) No.850 of 2018

Kani Mozhi ... Petitioner/Respondent

Vs.

P.Prakash ... Respondent/Petitioner

PRAYER:- Transfer Civil Miscellaneous Petition filed under Section 24 of the Civil Procedure Code, 1908, praying to withdraw H.M.O.P.No.2 of 2018 on the file of the Sub Court, Ooty, Nilgris District and transfer to Sub Court, Sivagangai, Sivagangai District.

For Petitioner : Mr.G.Gomathi Sankar

For Respondent : Mr.R.Alagumani

ORDER

This Transfer Civil Miscellaneous Petition has been filed by the petitioner / wife seeking transfer of H.M.O.P.No.2 of 2018 from the file of Sub Court, Ooty, Nilgris District, to Sub Court, Sivagangai, Sivagangai District.

2. It is stated in the petition that the marriage between the petitioner and the respondent was solemnized on 09.12.2013. After marriage, they lived together happily for some time and out of the wedlock, the petitioner gave birth to a male child on 29.07.2015 at her parental home. The grievance of the petitioner is that the respondent did not choose to visit her or the child immediately and only upon the instance of the elders, the respondent came and took them along with him to the matrimonial home. But, at the matrimonial home, she was put to harassment and brutally attacked by the respondent and his family members. Aggrieved by the action of the respondent, the petitioner left the matrimonial home and has filed a complaint before All Women Police Station, Manamadurai. While so, the respondent herein has filed H.M.O.P.No.2 of 2018 seeking divorce with false allegations. The grievance of the petitioner is that the respondent, being a resident of Ooty, has filed the above divorce petition at Sub Court, Ooty, Nilgiris District, whereas the petitioner is residing at her parental home at Manamadurai and hence, it is very difficult for her to travel about 350 kms from Manamadurai to Ooty for attending each and every hearing of the case.

3. The learned counsel for the petitioner reiterated the averments made in the petition.

4. The learned Counsel for the respondent, though objected for transfer, would submit that in the event of this Court allowing the present petition, the Court below may be directed to dispose of the H.M.O.P., proceedings within a stipulated time limit.

5. Heard the learned Counsel on either side and perused the materials available on record.

6. I am satisfied with the reasons stated in the affidavit filed in support of this petition. The Hon'ble Supreme Court in the judgment reported in 2008 (9)SCC 353 (Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta), has held that convenience of woman is to be taken into consideration first at the time of considering transfer applications. Hence, I am inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, this petition is allowed with the following directions:

i) The learned Subordinate Judge, Ooty, Nilgiris District, is directed to transmit the entire records in H.M.O.P.No.2 of 2018 to the file of the Sub Court, Sivagangai, within a period of two weeks from the date of receipt of copy of this order.

ii) The learned Subordinate Judge, Sivagangai, after obtaining the records on transfer, is directed to dispose of H.M.O.P.No.2 of 2018, within a further period of six months thereafter, in accordance with law.

No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Subordinate Judge, Ooty, Nilgiris District.

2.The Subordinate Judge, Sivagangai.

+1 cc to Mr.G.GOMATHI SANKAR, Advocate, SR 58332

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