



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Transfer C.M.P.(MD) No.154 of 2018 and
C.M.P.(MD) Nos.3430 and 3431 of 2018

S.Kannan

... Petitioner

-vs-

R.Brindha

... Respondent

Prayer: Petition filed under Section 24 of the Code of Civil Procedure praying to withdraw the HMOP No.196 of 2018 pending on the file of the Family Court, Karur and transfer the same to Principal Sub Court, Tiruchirappalli for disposal according to law and thus render justice.

For Petitioner : Mr.R.S.Sivaram

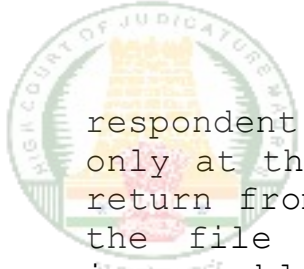
O R D E R

The petitioner, who is the husband of the respondent /wife herein has filed this transfer petition, seeking to transfer HMOP No.196 of 2018 pending on the file of the Family Court, Karur to the Principal Sub Court, Tiruchirappalli.

2. It is the case of the petitioner that his marriage with the respondent had taken place on 06.07.2015 and subsequently, pursuant to the refusal by the respondent / wife to live with him, he had earlier filed a petition in HMOP No.278 of 2015 for restitution of conjugal rights and since his effort for reunion with his wife ended in vain and his wife started giving false complaint of dowry against him and his family members, he filed yet another petition in HMOP SR No.913 of 2015 before the learned Principal Sub Court, Tiruchy, seeking divorce and the same was later on transferred to the file of learned Sub Court, Karur by this Court on the basis of the transfer petition filed by the respondent / wife in Tr.CMP No.319 of 2017.

3. It is the further case of the petitioner that the respondent's father is a politically influenced person, as he is working as driver to a local MLA and with his influence, he somehow managed to register a false case against him, which was also taken on file in C.C.No.157 of 2016 by the learned Judicial Magistrate No.I, Karur.

<https://hcservices.courts.tn.gov.in/hcservices/> submitted by the petitioner that when he went to the Court of learned Judicial Magistrate No.1, Karur in connection with the case in C.C.No.157 of 2016, the henchmen of the



respondent's father manhandled him and also damaged his car and only at the intervention of the Presiding Officer, he was able to return from Karur safely. Unless the case is transferred again to the file of Principal Sub Court, Trichy, he will be put to irreparable loss and his life will be at stake at the hands of the respondent's father and therefore, it is prayed for transfer of the case to Trichy in the interest of justice.

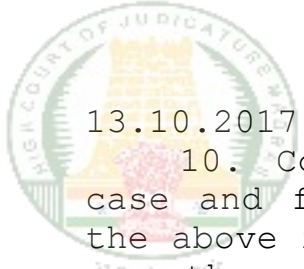
5. Heard the learned counsel for the petitioner and the notice to other side is dispensed with, in view of the nature of disposal of this case.

6. On a bare reading of the reasons stated in the affidavit filed in support of the petition, it is seen that the petitioner has made vague and false averments in support of his prayer for transfer without any material particulars. It is stated by the petitioner that he was beaten by his father-in-law and his car was punctured, but, however, from the typeset of papers, it is clear that an FIR has been registered against the uncle of the petitioner, namely, Senthilkumar. Even assuming for the sake of argument that the father of the respondent is an influential person and therefore, Police refused to accept the complaint preferred by him, there are other ways and means under the provisions of law to lodge the complaint against the culprits.

7. The Hon'ble Supreme Court time and again reiterated that convenience of the wife should be given paramount consideration, while hearing the petition for transfer. In the case of *Seema vs. Rakesh Kumar*, reported in 2000 (9) SCC 271, the transfer application filed by the wife was allowed on the ground of inability of the wife to defend the case at the husband's place due to financial constraints.

8. Unless or until there are exceptional circumstances, warranting transfer on the request of the husband, the Court must be slow in transferring the case to the place of husband's choice. In one such exceptional case, the Hon'ble Supreme Court in the case of *Smt. Kalpana Deviprakash Thakar vs. Dr. Deviprakash Thakar*, reported in 1996 (11) SCC 96, refused to entertain the petition filed by the wife, seeking transfer on the ground that the husband, being a Doctor, patients of the husband would suffer.

9. In the order passed by this Court dated 13.10.2017, transferring the case to Karur on the petition filed by the wife, she had sought transfer mainly on the ground of financial constraint and therefore, considering the convenience of the wife and recording the non appearance of the petitioner to contest the matter, the case was transferred. The petitioner/husband has not made out any exceptional averments for consideration, warranting transfer of the case, except making bald allegations against his father-in-law. Apart from this, the petitioner has also not challenged the order passed in Tr.CMP(MD) No.319 of 2017 dated



13.10.2017.

10. Considering the overall facts and circumstances of the case and following the dictum laid down by the Supreme Court in the above referred cases, if the present case on hand is analyzed, no other conclusion than the one can be arrived at that the Transfer Petition is liable to be dismissed.

11. In the result, this Transfer Petition is dismissed. Learned Judge, Family Court, Karur is directed to dispose of HMOP No.196 of 2018 within a period of four months from the date of receipt of a copy of this order by conducting trial on day to-day basis without giving adjournment to either parties and the parties shall extend their fullest cooperation for disposal of the case within the stipulated period as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/

Assistant Registrar (W)

/True copy/

Sub Assistant Registrar

To:

The Family Court Judge,
Karur

Transfer C.M.P. (MD) No.154 of 2018
10.04.2018

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KK/SV/03.05.2018/SAR-1/3P-2C