



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.10.2018
CORAM
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No.11751 of 2016
and
Crl.M.P.(MD) .No.5633 of 2016

Pounraj ...Petitioner/Respondent
Vs.

Sundari ...Respondent/Petitioner

Prayer: This Criminal Original Petition is filed under Section 407 Cr.P.C. to withdraw the case in M.C.No.35 of 1981 and the connected Criminal M.P.No.16 of 2004 and 12 of 2013, on the file of the Family Court, Madurai and transfer the same to the Family Court, Srivilliputhur in M.C.No.16 of 2016, to be tried along with for disposal of the same on merits in accordance with law.

For Petitioner: Mr.N.Ananthapadmanabhan
For Respondent: Mr.K.K.Kannan

ORDER

This petition has been filed seeking to transfer the Maintenance Case in M.C.No.35 of 1981 and the connected Crl.M.P.No.16 of 2004, which is pending on the file of the Family Court, Madurai to the file of the Family Court, Srivilliputhur.

2. The petitioner is the husband. The respondent has filed a maintenance case and maintenance was ordered by the learned Judicial Magistrate No.II, Madurai and thereafter, the maintenance was also enhanced in the year 1997. The petitioner also filed a maintenance case in M.C.No.16 of 2016, before the Family Court, Srivilliputhur seeking for maintenance against his daughter.

3. The respondent filed Crl.M.P.No.12 of 2013, against the petitioner to issue an arrest warrant against him, on the ground that the petitioner is not paying the arrears of maintenance. This petition is now being sought to be transferred by filing the present petition before this Court.

4. The transfer has been sought for on the ground that the petitioner is aged more than 70 years and he is a diabetic patient and his left leg has also been amputated and therefore, it will be impossible for the petitioner to attend to the Court proceedings pending before the Family Court, Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>

5. The learned counsel for the petitioner would submit that



this Court, taking into consideration the age of the petitioner and also the ailments suffered by him, has to transfer the pending case to the file of the Family Court, Srivilliputhur, since the petitioner is living there.

6. The learned counsel for the respondent would submit that the respondent has not been paid the maintenance amount and she has been suffering and the petitioner has successfully tagged on the proceedings by filing the present transfer petition.

7. This Court has carefully considered the submissions made on either side.

8. It is seen that the criminal original petition filed by the respondent is pending from the year 2013 onwards. The issue whether the petitioner had paid the maintenance amount is something to be decided by the Family Court. The presence of the petitioner is not required during every hearing before the Family Court. The petitioner can be represented by a counsel and the petitioner can give instruction to his counsel in order to enable the counsel to effectively represent his case. Thus, this Court is of the view that the proceedings pending before the Family Court, Madurai need not be transferred.

9. In view of the above, this Criminal Original Petition is dismissed and the petitioner is permitted to be represented by a counsel before the Family Court, Madurai in order to conduct the proceedings. The Family Court, Madurai is directed to dispose of the case in CrI.M.P.No.12 of 2013, within a period of one month from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS-III)

To

The Family Court, Madurai.

+ 1 CC TO MR.K.K.KANNAN, ADVOCATE IN SR NO.88645

SJI

BU/PM/SAR-III:30.10.2018 : 2P/3C

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