



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P. (MD) .No.15560 of 2016
and
CrI.M.P. (MD) No.7389 of 2016

1.S.Rani
2.Minor S.Gokul
3.Minor S.Aarthi
4.Minor S. Desingh
(Minor petitioners 2 to 4 are
rep. by their mother, the
first petitioner herein)

... Petitioners

Vs.

K.Sankar

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to withdraw the maintenance case in M.C.No. 13 of 2013 from the file of the Learned Judicial Magistrate No. II Thanjavur and transfer the same to the file of the learned Judicial Magistrate No. II, Kuzhithurai, Kanyakumari District.

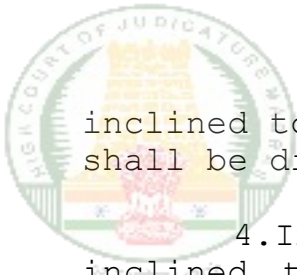
For Petitioners : Mr.V.S.Kumaraguru
For Respondent : Mr.A.Thiruvadikumar

O R D E R

This petition has been filed seeking to transfer the case in M.C.No. 13 of 2013 from the file of the Learned Judicial Magistrate No. II, Thanjavur to the file of the learned Judicial Magistrate No. II, Kuzhithurai, Kanyakumari District.

2.The learned counsel for the petitioner would submit that the first petitioner/wife filed a Maintenance Petition against the respondent/husband before the Thanjavur Court. Subsequently, the petitioner had changed her residence to Kanyakumari. The petitioner has to take care of three minor children and finds it too difficult to go to Thanjavur. Therefore, the petitioner has filed this transfer petition.

3.The learned counsel for the respondent would submit that the present petition is not maintainable and such transfer cannot be ordered merely because the petitioner has changed the residence. The learned counsel would further submit that if this Court is



inclined to transfer the proceedings, the presence of the respondent shall be dispensed with.

4. In the facts and circumstances of the case, this Court is inclined to transfer the proceedings pending before the learned Judicial Magistrate No. II, Thanjavur, taking into consideration the hardship that will be faced by the first petitioner in continuing the proceedings at Thanjavur, in view of her shifting the residence to Kanyakumari and in view of the fact that she has to take care of three minor children.

5. The proceedings in M.C.No. 13 of 2013 on the file of the learned Judicial Magistrate No. II, Thanjavur, is hereby withdrawn and transferred to the file of the learned Judicial Magistrate No. II, Kuzhithurai, Kanyakumari District. The learned Judicial Magistrate No. II, Thanjavur, is directed to transfer the entire case records to the file of the learned Judicial Magistrate No. II, Kuzhithurai, Kanyakumari District and the learned Judicial Magistrate No. II, Kuzhithurai, Kanyakumari District, is directed to complete the proceedings within a period of three months from the date of which the case records are received after the transfer. The presence of the respondent before the trial Court shall be dispensed with and the respondent shall be represented by a counsel before the Court below. Accordingly, this Criminal Original Petition is allowed. Consequently, Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar (CS-Iv)

To

1. The Judicial Magistrate No. II,
Thanjavur.
2. The Judicial Magistrate No. II,
Kuzhithurai, Kanyakumari District.
3. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr. V.S.KUMARAGURU ADVOCATE IN SR No. 92454
+ 1 CC TO Mr. A. THIRUVADI KUMAR, ADVOCATE IN SR No. 92193

LS

TE/SV/SAR-4 : 04/12/2018 : 2P/7C