



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD)No.9269 of 2018

and

Crl.M.P. (MD)No.4037 of 2018

J.Dinesh Kumar

... Petitioner

Vs.

P.Divya Bharathi

...Respondents

PRAYER: Criminal Original Petition filed under Section 407 Cr.P.C. praying to withdraw and transfer the case in M.C.No.5 of 2018 on the file of the Chief Judicial Magistrate Court, Perambalur to the file of the Judicial Magistrate Court, Thuraiyur.

For Petitioner : Mr.M.R.Sreenivasan
For Respondent : No Appearance

ORDER

This Criminal Original Petition has been filed by the petitioner, who is the husband, to transfer the case in M.C.No.5 of 2018 from the file of the Chief Judicial Magistrate, Perambalur to the file of the Judicial Magistrate Court, Thuraiyur.

2.Though the respondent / wife has been served with notice and her name has also been printed in the cause list, she has neither appeared in person nor through counsel. Therefore, this Court proceeds to decide the case on merits.

3.The learned counsel for the petitioner would submit that the petitioner / husband had filed H.M.O.P.No.270 of 2016 on the file of the Family Court, Trichy against the respondent / wife seeking divorce. The respondent / wife had also filed a petition for restitution of conjugal rights in H.M.O.P.No.20 of 2016 before the Sub Court, Perambalur.

4.This Court by an order dated 19.12.2017 made in Tr.C.M.P.No.496 of 2017 transferred the said H.M.O.P.No.20 of 2016 from the file of Sub Court, Perambalur to the file of the Sub Court, Thuraiyur. Thereafter, this Court by an order dated 12.03.2018 made in Tr.C.M.P.No.20 of 2018 directed the Family Court, Trichy to transfer the H.M.O.P.No.270 of 2016 to the file of the Sub Court, Thuraiyur to be tried along with H.M.O.P.No.20 of 2016.

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

5.In view of the above orders, H.M.O.P.Nos.270 and 20 of 2016

is now pending before the Sub Cour, Thuraiyur.

6.The learned counsel for the petitioner would submit that the maintenance case filed by the respondent / wife in M.C.No.5 of 2018, which is pending before the Chief Judicial Magistrate Court, Perambalur may also be transferred to the file of the Sub Court, Thuraiyur, so that the parties can prosecute the proceedings in the same place.

7.This Court is of the considered view that the request made by the petitioner is reasonable. Already two proceedings are pending before the Judicial Magistrate Court, Thuraiyur filed by either parties. Therefore, in the interest of justice, this maintenance case can also be transferred to the Judicial Magistrate Court, Thuraiyur, so that the parties can prosecute the proceedings in the same place.

8.In the result, this Criminal Original Petition is allowed, the case in M.C.No.5 of 2018 is withdrawn from the file of the Chief Judicial Magistrate Court, Perambalur and transferred to the file of the Judicial Magistrate, Thuraiyur. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS-I)

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To

1.The Chief Judicial Magistrate,
Perambalur.

2.The Sub Judge,
Thuraiyur.

3.The Judicial Magistrate,
Thuraiyur.

+1cc to Mr.M.R.Sreenivasan, Advocate in SR No.82715

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