



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN, J

Transfer C.M.P. (MD) No.478 of 2017
and C.M.P. (MD) No.9558 of 2017

S.Rani

... Petitioner/Respondent

-vs-

K.Siva Perumal

... Respondent/Petitioner

Prayer: Petition filed under Section 24 of the Code of Civil Procedure praying to withdraw the petition in H.M.O.P.No.267 of 2017 pending on the file of the Sub Court, Thiruchendur and transfer the same to the file of Honourable Subordinate Court, Valliyoor.

For Petitioner : No Appearance
For Respondent : Mr.S.Sathya Chidambaram

O R D E R

The petitioner, who is the wife of the respondent has filed this transfer petition with the prayer to transfer the case, pending on the file of the Sub Court, Thiruchendur in H.M.O.P.No.267 of 2017 (which was filed by her husband for dissolving their marriage), to the Subordinate Court, Valliyoor.

2. There is no representation for the petitioner. Heard the learned counsel for the respondent and perused the materials available on record.

3. It is the case of the petitioner / wife (as averred in the petition) that her marriage with the respondent / husband had taken place on 10.02.2016 and thereafter, demanding more dowry, the respondent was forcibly sent out of her matrimonial home. It is the further case of the revision petitioner that she has filed a petition in HMOP No.38 of 2017 before the Sub-Court, Valliyoor for restitution of conjugal rights.

4. It is further averred in the petition that she is solely dependent on her single parent / mother, as her father had died on 17.02.2017 and she has been struggling for her livelihood and therefore, she is not in a position to attend the Court proceedings at Thiruchendur, by incurring huge expenses on every hearing.

5. The learned counsel for the respondent would submit that the allegations levelled against the respondent in the petition are false and it is the petitioner, who deserted the respondent / husband. However, he would further submit that in the event of this



Court allowing this petition, suitable direction may be issued to the Trial Court for early disposal of the H.M.O.P., proceedings.

6. It is seen that the petitioner does not have a father and she is living with her mother, which is not disputed by the respondent / husband. It is also seen from the records that the petitioner / wife has filed HMOP No.38 of 2017 before the Sub-Court, Valliyoor for restitution of conjugal rights and the same is still pending. Moreover, it is well settled law that convenience of woman is the paramount consideration, while dealing with transfer applications, as held by the Hon'ble Supreme Court in the case of **Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta**, reported in **2008 (9) SCC 353**. Therefore, I am inclined to allow the present petition.

7. In the result,

a) this Transfer Petition is allowed;

b) the learned Sub Judge, Thiruchendur is directed to transmit the entire records in H.M.O.P.No.267 of 2017 to the file of the Sub Court, Valliyoor within a period of two weeks from the date of receipt of copy of this order;

c) The learned Subordinate Judge, Valliyoor, after obtaining the records on transfer in respect of H.M.O.P.No.267 of 2017, is directed to dispose of the same, within a period of three months thereafter;

d) the appearance of the respondent / husband before the Court at Valliyoor is dispensed with, except on the hearings when his presence is specifically insisted upon by the Trial Court.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(writ)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Thiruchendur.

2. The Subordinate Judge,
Valliyoor.

+1cc to Mr.S.Sathya Chidambaram Advocate in SR. No.63958

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MK/SV MMS/SAR 3/31.05.2018/4C/2P

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

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