



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.01.2018

CORAM :
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

TR.CMP (MD) No.529 of 2017
and
CMP (MD) No.11344 of 2017

M.Lakshmi ... Petitioner

vs.

S.Vairamuthu ... Respondent

Petition filed under Section 24 of the Civil Procedure Code, to withdraw HMOP.No.107/2017 on the file of the Family Court, Srivilliputhur and transfer the same to Sub Court, Virudhunagar.

For Petitioner : Ms.P.Malini
For Respondent : Mr.M.Jothi Basu

ORDER

This Transfer Civil Miscellaneous Petition has been filed to withdraw HMOP.No.107/2017 on the file of the Family Court, Srivilliputhur and transfer the same to Sub Court, Virudhunagar.

2.Learned counsel for the petitioner would among other things aver that the marriage between the petitioner and the respondent was solemnised on 15.09.2016 as per the Hindu rites and customs. Out of the wedlock, the petitioner gave to birth to a female child on 21.08.2017. The allegation made by the petitioner is that the respondent under the influence of Alcohol used to beat the petitioner and demanded the petitioner to get money from her parents.

3.Learned counsel for the petitioner would further submit the petitioner along with her child is residing with her parents at Sivakasi Taluk, Virudhunagar District, and she is depending on her parents for her livelihood. Further, the petitioner has given birth to the child after undergoing operation and therefore, she is unable to travel to Srivilliputhur for attending the hearings of HMOP.

4.Though the learned counsel for the respondent objected to the transfer of HMOP.No.107/2017, he prayed for early disposal of the HMOP.

5.Heard the learned counsel for the petitioner and the respondent and perused the materials available on record.

6.It is a settled legal proposition that in transfer petitions regarding matrimonial disputes, convenience of the wife has to be



given preference. In this regard, reference can be made to the following decision of the Hon'ble Supreme Court in *Arti Rani @ Pinki Devi and another Vs. Dharmendra Comber Gupta*, reported in 2008 (9) SCC 353, wherein, it has been held that convenience of the wife must be given preference in the matter of transfer petition.

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6. Considering the facts and circumstances of the case and in the light of the legal principle that convenience of the wife has to be given preference, this Transfer Civil Miscellaneous Petition is allowed and HMOP.No.107/2017 on the file of the Family Court, Srivilliputhur, is ordered to be transferred to the file of the Subordinate Court at Sivakasi, within a period of two weeks from the date of receipt of a copy of this order. The learned Principal Sub Judge, Sivakasi, is directed to dispose of HMOP.No.107/2017 within a period of six months from the date of receipt of case papers in HMOP.No.107/2017. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To

1) The Judge,
Sub Court,
Sivakasi.

2) The Judge,
Family Court,
Srivilliputhur.

+1cc to Mr.P.MALINI, Advocate, SR. 45256

+1cc to M/S.G.M.LAW OFFICE, Advocate, SR.45402

TR.CMP (MD) No.529 of 2017
31.01.2018

BALA

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