

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.01.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.528 of 2019

&

C.M.P.Nos.358 & 359 of 2019

A.Lalitha

... Petitioner

-Vs-

R.Palaniandi

...Respondent

Prayer: Criminal Original petition is filed under Section 407 of Cr.P.C, to withdraw STC No.150 of 2018 on the file of the Judicial Magistrate (Fast Track Court-Magisterial Level) at Attur and transfer the same to the Judicial Magistrate Court at Coimbatore.

For Petitioner : Mr.K.Myilsamy

ORDER

This petition has been filed seeking to transfer the proceedings in S.T.C.No.150 of 2018, pending on the file of the learned Judicial Magistrate, (Fast Track Court-Magisterial level)) at Attur.

2. This petition has been filed on the ground that the petitioner is suffering from umbilical hernia disease and undergone surgery and the doctors have advised the petitioner not to travel long distance. The petitioner has stated that the distance between Coimbatore, where she is residing and Salem, where the case is pending, is nearly 180 km, the petitioner is not in a position to travel.

3. The further ground has been taken by the petitioner is that there is a dispute between the petitioner and the husband in HMOP No.157 of 2017, pending before the Sub Court, Attur. That apart, the Domestic Violence proceedings is also pending between the parties in DVA No.25 of 2018. Therefore, the husband instigated the respondent to file a complaint under Section 138 of the Negotiable Instruments Act against the petitioner.

4. The ground stated by the petitioner is not enough to transfer the proceedings. Therefore, if the presence of the petitioner is dispensed with before the Court below and she is permitted to be represented by a counsel, the proceedings can go on and the petitioner need not to be present at the time of every hearing. The presence of the petitioner is dispensed before the Court below and she shall be represented by a counsel. The counsel representing the petitioner shall cross-examine the witnesses on the same day they are examined in chief. The petitioner can seek to dispense with her appearance even at the time of questioning and the Court below shall follow the principles enunciated by the Hon'ble Supreme Court of India in this regard in KEYA MUKHERJEE V. MAGMA LEASING LTD., reported in (2008) 8 SCC 447. The petitioner shall be present before the Court on the date of passing of the judgment.

5. This Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in S.T.C.No.150 of 2018, within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. Judicial Magistrate,
(Fast Track Court-Magisterial Level)
at Attur

2. The Judicial Magisterial
Coimbatore.

+1cc to Mr.K.Myilsamy, Advocate, S.R.No.2592

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SR(CO)
GSP(04/02/2019)