

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr. CMP No.240 of 2019

and

CMP No.7122 of 2019

D. Sudha Rani

... Petitioner

.Vs.

P. Dharma Sastha

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of CPC, to withdraw the HMOP. No. 6 of 2019 pending on the file of the Sub Court at Ramanathapuram and transfer the same to the Family Court at Chennai.

For Petitioner : Ms. S.S.Jothivani

For Respondent : No appearance.

ORDER

The petitioner-wife has prayed before this Court to withdraw HMOP. No. 6 of 2019 pending on the file of the Sub Court at Ramanathapuram and transfer the same to any one of the Family Court at Chennai.

2. The case of the petitioner is that she got married to the respondent on 20.01.2011 as per Hindu rites and customs at Sri Valli Devasena Trust, No.30/32, Azhagiri Nagar 3rd Street, Vadapalani, Chennai 600 026 and the same was registered before the Registrar of Marriages, Kodambakkam, Chennai on 14.02.2011. She further submitted that the marriage was a love marriage against the wishes of the family members and they also sought for the police protection from the Superintendent of Police, Dindigul, since the petitioner belongs to Hindu Adi Dravidar Scheduled Caste Community and the respondent belongs to Hindu Ambalam (Thevar) community. At the time of marriage the petitioner was studying in the college and the respondent has studied only upto 9th standard. Since the respondent got married to the petitioner, who belongs to Adi Dravida community, The respondent's family never accepted the petitioner. She further submitted that till date the respondent never take her to his house by threatening her that if she comes to his place, his community people will cause damage to her life. The petitioner's parents took initiative to bring them to Chennai and arranged for the marriage. After that, they were residing in Chennai. The petitioner's parents

helped the respondent to start the travel business and gave him luxuries in life. The respondent being a driver, started the travel company in the name of "SS Travels" with the financial assistance of the petitioner's parents and running the same in the address where they were residing. The petitioner gave birth to a male child by name D.Kowshik on 20.10.2011 and a girl child by name D.Nakshatra on 22.01.2014. The petitioner further submitted she was living with the respondent happily only of 3 years. Later, the respondent did not give any money stating that he wanted to develop the business. The parents of the petitioner was taking care of the petitioner and her children. Meanwhile, the respondent changed his habits and become addicted to alcohol and started abusing the petitioner and tortured her physically and mentally and scold her by calling her caste name. The respondent also intimated that there was a loss in the business and later the petitioner came to know that the respondent is having illicit intimacy with many girls including family ladies and spent all the money earned from the business by spending lavishly for them and hence he started neglecting the family. To her shock, the respondent has taken the son along with him during August 2018 and never returned back to the family. After so many efforts the respondent joined the matrimonial home during the month of October 2018 along with the child and after a few months the respondent snatched the thali from her and left the matrimonial house. Hence, the petitioner lodged a police complaint before All Women Police Station, Ashok Nagar, Chennai on 24.12.2018. In spite of the undertaking given by the respondent before the police to take care of the family, he did not return home and switched off his mobile phone also. The petitioner came to know through his friends that he has left for his native place at Tiruvadanai Taluk, Ramnad District. In the meanwhile she got summons in HMOP No.6 of 2019 on the file of the Sub Court, Ramanathapuram, filed by the respondent seeking divorce from the petitioner by alleging false and frivolous allegations against her.

3. The petitioner submits that it will be difficult for her to attend the proceedings at Sub Court, Ramanathapuram, as she is unemployed and not financially well off to meet the travel expenses and furthermore, for travelling to Ramanathapuram, she needs help from her family members to accompany her and hence prays to transfer the HMOP No.6 of 2019 filed by the respondent /husband before the Sub Court, Ramanathapuram, to any one of the family court at Chennai to enable her to defend the same properly.

4. Notice was served on the respondent and the same has been returned as left with no instructions. Hence, this Court earlier directed the counsel for the petitioner to serve the same to the counsel appearing for the respondent before the Ramanathapuram Court and the same was served on the counsel in Ramanathapuram. The said notice has been received by Mr.P. Ravi Kumar, Advocate No.132/2, Pulikkara Theru, Ramanathapuram

on 05.07.2019. The registry was directed to verify whether any vakalat has been filed on behalf of the respondent and it is found that no vakalat has been filed on behalf of the respondent.

5. Hence, this Court is of the view that in spite of the information sent to the respondent, he has not chosen to defend the same by engaging an advocate or appear in person. Hence, this Court is inclined to transfer the HMOP. No. 6 of 2019 pending on the file of the Sub Court at Ramanathapuram, to any one of the Family Court at Chennai. Accordingly, HMOP. No. 6 of 2019 pending on the file of the Sub Court at Ramanathapuram is transferred to any one of the Family Court at Chennai. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Judge, Ramanathapuram
2. The Judge,
Family Court, Chennai.

+1cc to Mr.S.S.Jothimani, Advocate, S.R.No. 89046

Tr. CMP No.240 of 2019

NMI (CO)
GN(29/11/2019)