

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 30.10.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.366 of 2019
and
C.M.P.No.10367 of 2019

S.Sudhakar

... Petitioner

Vs.

Lakshmi

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw HMOP. No.49 of 2018 on the file of the Subordinate Court, Vellore and transfer the same to any one of the Family Courts, Chennai.

For Petitioner : Mr.S.Arunkumar
For Respondent : Notice served - No appearance

O R D E R

The husband is the petitioner herein. The respondent is the wife of the petitioner. The petitioner/husband has filed this petition in Tr.C.M.P.No.366 of 2019, praying for an order from this Court to transfer the H.M.O.P.No.49 of 2018, pending on the file of the Subordinate Court, Vellore and transfer the same to any one of the Family Court, Chennai.

2. In the affidavit filed in support of the transfer petition, the petitioner has alleged that the marriage between him and the respondent solemnized on 06.02.2017 at Virinjipuram, Anaikattur Taluk, Vellore District as per Hindu Religious Custom and Rites. Prior to the marriage the respondent was working in a private shoe company. The petitioner is working as a Driver in Blue Star Travels Pvt. Ltd., Chennai. The respondent has two elder brother and two elder sisters and one younger brother. After the marriage the couples were lived together in the matrimonial home. After few days of the marriage, the respondent's brother in law by name Viswanathan frequently come to the petitioner's house for causing trouble that as per Astrology, there is a trouble to the couples. So, the couples should not sleep together for six months. Thereafter, during the month of Aadi 2017, the respondent went to her parental home as

per Hindu Custom and Tradition and she never come back to the matrimonial home. When the petitioner asked to send the respondent to his house, the said viswanathan and his wife Nathiya had refused to send the respondent to the matrimonial house and also threatened the petitioner. In this regard, several panachayats were held at Iravankadu Village Panchayat and Valathur Viillage Panchayat. As a result, the respondent agreed to live with the petitioner after Aadi month. Due to the threat of her Sister Nathiya and her husband Viswanathan, the respondent stated that she was not interested for reunion with the petitioner. When the petitioner asked about the same, under the instigation of Nathiya and Viswanathan, in order to take vengeance, the respondent has preferred a false complaint against the petitioner before the All Women Police Station, Ambur, Vellore District.

3. The petitioner has further stated that the respondent informed the police that she was not willing to go with the petitioner. Hence, Viswanathan and Nathiya demanded return of all marriage sridhana goods. The petitioner has returned the same on 27.09.2017. Thereafter, the respondent sent a legal notice to the petitioner for divorce and she filed a petition in HMOP.No.49/2018 before the Sub Court, Vellore for dissolution of marriage. The learned Sub Judge was referred the case before the Mediation Centre. Both the parties were ready for reunion. But, on the next hearing, the respondent's brother in law and his wife created problems. Subsequently, the respondent stated that she was not willing for re-union. Again on 12.10.2018, before the Mediation, the petitioner and the respondent have agreed for reunion. But, the brother in law and his wife assaulted the petitioner. Further they filed a false complaint against the petitioner for spoiling the matrimonial life of the petitioner. The petitioner has filed a petition in Crl. O.P.No.24702 of 2018 before this Court seeking anticipatory bail and the same was dismissed on 26.10.2018 as no case no petition. The petitioner has filed a petition before this Court in Crl.OP.No.4479 of 2019 seeking to direct the police to register the complaint dated 12.10.2018 against the Viswanathan and Nathiya and investigate the same. Accordingly, on 21.02.2019, this Court was pleased to issue necessary direction.

4. The respondent has filed a divorce petition before the Sub Court, Vellore. The petitioner is a resident of Chennai. Hence, he seeks to transfer of the case in HMOP. No.49 of 2018 from the file of the learned Sub Judge, Vellore to any one of the Family Court, Chennai.

5. The learned counsel for the petitioner would submit that the petitioner is a resident of Chennai and engaged in business activities, whereas the respondent is unemployed. If the case is transferred to Chennai, no prejudice would be caused to the respondent. The learned counsel would further submit that when the petitioner is having threat to his life, the case can be transferred to any other court at Chennai. Therefore, it will be appropriate to transfer the case filed by the respondent from Vellore to Chennai.

6. Notice has been served on the respondent through Court as well as privately. In spite of giving sufficient opportunities, the respondent has not appeared either in person or through her counsel. None appears on behalf of the respondent. Hence, this Court is inclined to pass orders on merits and in accordance with law.

7. Heard the learned counsel for the petitioner and also perused the materials available on record. No representation on behalf of the respondent.

8. It is an admitted fact that the petitioner belongs to Chennai. Even in the transfer application, the petitioner has stated that he is residing at No.47, (Old No.22) SPS 2nd Street, Royapettai, Chennai and the respondent is residing at Valathur, Old Colony, Pernampet Taluk Vellore District. It is not in dispute that the petitioner and the respondent are the husband and wife. Due to misunderstanding, they were living separately and the respondent/wife has filed a petition in H.M.O.P.No.49 of 2019, on the file of the Principal Sub-Judge, Vellore. In the meanwhile the Transfer Civil Miscellaneous Petition 366 of 2019, has been filed by the petitioner/husband.

9. The learned counsel for the petitioner submitted that the petitioner/husband wanted to re-join with his wife and due to which, he has arranged several mediation before the elders of the family and before the Court below. However, the respondent/wife has not accepted to join with the petitioner.

10. It could be seen from the petition filed by the wife before the lower Court that during the marriage, the petitioner's mother demanded more household articles and after the marriage also, the petitioner's mother and sisters demanded more jewels from the respondent's parents. Even then the respondent was being treated very badly by the petitioner and

his mother. It has also been further stated that the petitioner has avoided to cohabit with the respondent. When the respondent asked about the same, the petitioner assaulted her and abused her in filthy language and also the petitioner's family have not provided food to the respondent.

11. It has been stated by the respondent that on several occasions, the petitioner and his family members had sent her to her parental house. After mediation before the elders of both the family, the petitioner has taken the respondent to the matrimonial home. Thereafter, the petitioner told the respondent that he is not willing to lead a marital life with the respondent. The respondent further submitted that due to the activity of the petitioner and his mother, the respondent had undergone physical and mental harassment. Due to which, the respondent left the matrimonial home and filed a petition for divorce.

12. Being a lady, the respondent could not travel such a long distance. But, the petitioner/husband has lodged a complaint before the Inspector of Police Sathuvachari Police Station, Vellore District as if he was threatened by four persons. While the petitioner was attending the Court proceedings at Vellore, the four known persons have threatened the petitioner and assaulted him. Hence, the petitioner has sought to transfer of the case filed by the wife to the Family Court, Chennai.

13. In view of the above, this Court is of the opinion that the divorce petition filed by the wife has to be transferred to a common place. Considering the facts and circumstances of the case and convenience of both the parties, this Court is inclined to transfer the petition in HMOP No.49 of 2018 on the file of the Sub Court, Vellore to the file of the Sub Court, Kancheepuram.

14. The learned Sub Judge, Vellore is directed to transmit the entire records in HMOP. No.49 of 2018 on the file of the Sub Court, Vellore to the file of the Sub Court, Kancheepuram within a period of four weeks from the date of receipt of a copy of this order and the learned Sub Judge, Kancheepuram is directed to dispose of the same on merits and in accordance with law as expeditiously as possible.

15. Both the parties and their counsel are directed to maintain discipline and decorum before the Court below and cooperate with proceedings.

16. With the above directions, this Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

// True Copy//

Sub Assistant Registrar

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To

- 1.The Sub Judge, Vellore.
- 2.The Sub Judge, Kancheepuram.

TR C.M.P. No.366 of 2019
and
C.M.P.No.10367 of 2019

PA(CO)
CSR:11.02.2020



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