

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.401 of 2019
and
C.M.P.No.10860 of 2019

T.Keerthana

... Petitioner

Vs.

C.Dinesh Kumar

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case in HMOP. No.200 of 2018 on the file of the Subordinate Judge, Perambalur, Perambalur District and transfer the same to the file of the VII Additional Family Court, Chennai for the purpose of having joint trial with HMOP. No.124 of 2019.

For Petitioner : Mr.R.Perumal Swamy

For Respondent : Mr.L.Mouli

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the case in HMOP. No.200 of 2018, on the file of the Subordinate Judge, Perambalur, Perambalur District and transfer the same to the file of the VII Additional Family Court, Chennai , to try along with HMOP. No.124 of 2019.

2. The case of the petitioner is that the Respondent and petitioner are the husband and wife. The marriage was solemnized between them on 30.10.2017 at Dhanalakshmi Srinivasa Thirumana Mahal, Palakkarai, Perambalur as per Hindu Rites and Custom. After the marriage, the couple were lived together in Flat No.G-1, Malar Apartment, Door No.29, Income Tax 1st Street, Vel Nagar, Adambakkam, Chennai-88. On 07.11.2017, the couples went to Munar for honeymoon. In Munar, the respondent forced the petitioner to consume alcohol and the same was refused by the petitioner. So that, the dispute arose between them. After few days of the

marriage, the respondent started ill-treating the petitioner and abused her without any reason and he insulted the petitioner by damaging her womanhood as if she was not getting menstruation and suffering with many ailments. Thereafter, the respondent has taken the petitioner to KGS Clinic, wherein Dr. Gayathri Kumar made a scan and suggested to take treatment for three months. But the respondent refused to accept the doctor's advice. In spite of that, the respondent tortured the petitioner in front of the respondent's family members. On 16.04.2018, in the presence of the respondent's family members, the respondent has quarrelled and assaulted the petitioner, for which, the petitioner tried to commit suicide. But the respondent prevented the petitioner to commit suicide. On several occasions, the respondent and his family members caused mental torture and cruelty to the petitioner and also the respondent deserted her. Having no other option, the petitioner has filed a petition in HMOP. No.124 of 2019 before the VII Additional Family court, Chennai for restitution of conjugal rights and the same is pending. Thereafter, the respondent has filed a petition for divorce in HMOP. No.200 of 2018 on the file of the Subordinate Court, Perambalur. The petitioner/wife is the resident of Chennai. She finds it difficult to travel from Chennai to Perambalur to attend the hearings. Therefore, she seeks transfer of the divorce petition filed by the husband to the file of the Family Court, Chennai.

3. The learned counsel for the petitioner/wife would submit that the petitioner is living in her parental house along with her aged parents and she is depending upon her parents for her livelihood. The respondent is residing in Adambakkam, Chennai. Only to harass the petitioner, the respondent has filed a case before the Sub Court at Perambalur. It is very difficult for her to travel from Chennai to Perambalur. The petitioner and her father have spent two days to attend the Court proceeds. If the case is transferred to Chennai, no prejudice would be caused to the respondent. Hence, the petitioner came this Court by way of this petition, seeks transfer of the case pending before the Sub Court, Perambalur and seeks joint trial to the file of the Family Court, Chennai.

4. The learned counsel for the respondent/husband would submit that the respondent has denied all the allegations made by the petitioner in the affidavit and he also has filed a counter affidavit. The learned counsel for the respondent would further submit that the petitioner and the respondent went to Munar for honeymoon. At that time, the petitioner demanded the respondent to buy an Alcohol and Cigarette. When he refused to buy the same, the petitioner threatened the respondent to commit

suicide. The respondent has no other choice to but the alcohol and cigarette. After consumed the same, the petitioner behaved rudely and abused the respondent and his family members. The petitioner had started these habits during her school days. Thereafter, the respondent came to know that the petitioner did not get menstruation and she has been under treatment for over 8 years. Further, the petitioner had an illicit relationship with one Harish. On 16.04.2018, the petitioner left the matrimonial home stating that she will marry the person who accepts the petitioner's character. Thereafter, on 03.10.2018, the respondent sent a legal notice to the petitioner and also filed a petition for divorce before the Subordinate Court, Perambalur in HMOP. No.200 of 2018. As a counter blast, the petitioner has filed a petition for restitution of conjugal rights before the VII Additional Family Court, Chennai in HMOP. No.124 of 2019. Hence, the respondent seeks to dismiss this application filed by the petitioner.

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

6. It is seen from the records that the petitioner and the respondent have filed two different petitions at two different places. This Court is of the opinion that since both the cases are interconnected and Joint trial would meet ends of justice and also to avoid conflicting orders. Considering the facts and circumstances of the case, this Court is inclined to withdraw the petition in HMOP. No.200 of 2018 on the file of the Sub Court, Perambalur and transfer the same to the file of the VII Additional Family Court, Chennai, to try along with the case in HMOP.No.124 of 2019.

7. Accordingly, H.M.O.P.No.200 of 2018 pending on the file of Subordinate Court, Perambalur is to be withdrawn and transferred to the file of the VII Additional Family Court, Chennai, to be tried along with HMOP. No.124 of 2019.

8. In the result, the Transfer Civil Miscellaneous Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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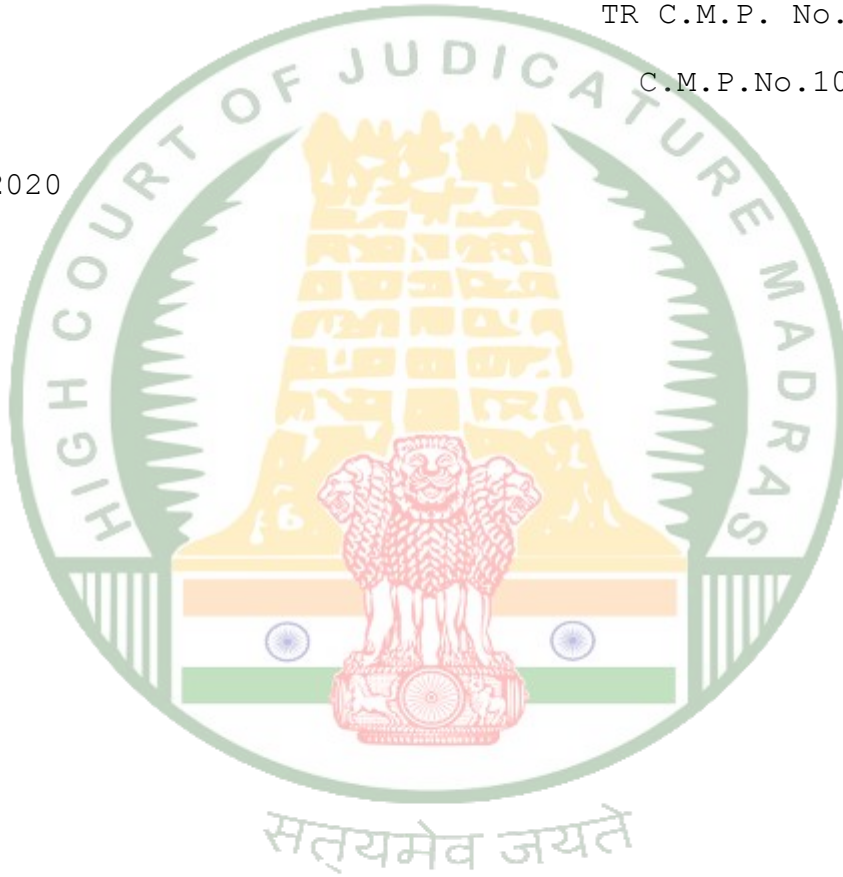
1. The Subordinate Court, Perambalur.
2. The VII Additional Family Court, Chennai.

+lcc to M/s.L.Mouli, Advocate sr.89732

+lcc to Mr.D.Gopinathan, Advocate sr.89540

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and
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