

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.11.2019

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.566 of 2019

and

C.M.P.No.15959 of 2019

K.T.Joshina

..Petitioner/Respondent

Vs.

G.Renomenson

...Respondent/Petitioner

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to pass a transfer order to withdraw the I.D.O.P No.27 of 2019 from the file of the Principal District and Sessions Judge Court at Nagercoil to the Family Court at Chennai.

For Petitioner : Mr.A.K.Martin

For Respondent : Mr.S.Suganth Sam Abraham

ORDER

The petitioner herein filed this transfer Civil Miscellaneous Petition to withdraw the case in IDOP. No.27 of 2019, pending on the file of the Principal District and Sessions Judge Court at Nagercoil and transfer the same to the file of the Family Court, Chennai.

2. The case of the petitioner is that the respondent and the petitioner are the husband and wife and the marriage between the parties was solemnised on 02.05.2016 at Sacred Heart Church, Valiyavialai House, Padanthalumoodu Post, Kanyakumari District. The respondent family before marriage itself had demanded dowry cash amount of Rs.25,00,000/-, 201 sovereign Gold jewels, 1 Kg of silver ornaments, one B.M.W Car, One Refrigerator, One ton Air Conditioner, one Washing Machine, one cot, one bed and all household items from the parents of the petitioner. Since, the respondent is working as a Safety Officer at Qatar Middle East Country and drawing salary of Rs.3,25,000/- per month and the respondent mother Mrs.Shanthi Prabha is working as Senior School Teacher in Government Aided School at Colechal and was drawing a salary of Rs.68,000/- per month, the petitioner family offered the above said dowry and obtained a cash receipt dated 30.04.2016. The petitioner father died during the childhood of the petitioner.

3. After the marriage celebration, the couples were lived happily for one week and thereafter, the respondent, his parents viz Mrs.Shanthi Prabha and Mr.George, his Aunty, Mrs.Roseletmarry and

Violetmarry frequently harassed and tortured the petitioner to bring additional dowry amount of Rs.10,00,000/-.

4. As per the direction and demand of the Respondent, the petitioner approached her mother and asked the above said amount of Rs.10,00,000/- and her mother told that she will arrange for the money with a week's time but she could not able to do so. The respondent and his parents forcibly exhorted 151 sovereign of gold jewels from the petitioner for mortgage in the private finance company to alter the old house of the respondent. The respondent and his family members tortured the petitioner to get the additional dowry amount of Rs.10,00,000/- and threatened the petitioner that they will abort her pregnancy, if she did not bring the dowry amount. Further, the mother of the petitioner offered the dowry amount of Rs.5,00,000/- to the respondent on 29.05.2016 to purchase a car.

WEB COPY

5. The respondent family further treated the petitioner as a servant maid and poured hot water on her body and asked her to execute a sale deed in favour of the respondent fully knowing well that the petitioner's mother owned property situated at Chennai and

Padanthalumoodu. The petitioner further states that the respondent went to Qatar Country for work and the respondent used to send his monthly salary to his mother but the respondent mother not even given a single pie to the petitioner to buy a daily needs. Thereafter, the petitioner left the matrimonial home for delivery and she gave birth to a baby child viz., Chris Bryan on 16.01.2017. The respondent has not come back to India to visit the petitioner and her child. The respondent's family members came to see the child and further demanded dowry of Rs.25,00,000/- to get a job in a Government Aided Church School for the petitioner.

6. Keeping in mind the future of the petitioner and her child, the petitioner's mother further given a dowry amount of Rs.5,00,000/- with the original school and college certificate to the respondent parents on 29.03.2017 and remaining cash amount of Rs.5,00,000/- paid to them on 14.04.2017. The respondent's family was keeping silent and did not get a job for the petitioner and also utilised the money for renovating their house. The respondent after returning from Qatar, had taken the petitioner and child to the house at Nagercoil. Believing the words of the respondent, the petitioner went to her matrimonial house along with

children. Thereafter, unable to bear the continuous torture exerted by the respondent and his family, the petitioner gave a police complaints before the Higher Police Officials and the Protection Officer at Thiruvallur District and Kanyakumar District on 15.02.2019 and the Inspector of Police, All Women Police Station at Ambattur on several occasions. The respondent and his family left the petitioner at Chennai Ambattur on 15.01.2019. Further, the Respondent filed a Divorce Petition in I.D.O.P.No.27 of 2019 before the Principal District & Session Judge Court at Nagercoil. Since the petitioner / wife is having a small child, she find it very difficult to travel from Chennai to Nagercoil to attend every date of hearing. Hence, she seeks transfer of the petition in IDOP No.27 of 2019 pending on the file of the Principal District and Sessions Judge Court at Nagercoil to the file of the Family Court at Chennai.

7. The learned counsel for the petitioner would submit that now the petitioner and her children are living in her parental home at Ambattur. She is depending upon her parents for her livelihood. The learned counsel for the petitioner would further submit that the petitioner being a lady, could not travel alone from Ambattur to Nagercoil for attending Court proceedings. If the case is transferred to

Chennai, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer of the case filed by the husband from Nagercoil to Chennai.

8. The learned counsel for the respondent states that the petitioner/wife's friends and relatives are residing at Nagercoil and hence, it will not be difficult for her to stay at Nagercoil and appear before the said Court and therefore, prays for dismissal of this transfer civil miscellaneous petition.

9. Heard the learned counsel for the petitioner as well as the respondent. Perused the materials available on record.

10. It is well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in **2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta]** and **AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]**. Further, the petitioner has also given valid and sufficient reasons to transfer the case in I.D.O.P.No.27 of 2019

from the file of Principal District and Sessions Judge Court, Nagercoil to the file of Family Court, Chennai.

11. This Court is of the considered view that since the petitioner / wife is having a two years old kid and she is not employed anywhere, so also facing a financial stress, it will be difficult for her to travel from Nagercoil to Chennai to attend every date of hearing and also this Court keeping in mind the harassment exhortated by the respondent and his family member, towards the petitioner which are still in the minds of the petitioner, She find it unsafe to travel from Chennai, this Court is inclined to transfer the case from Nagercoil to Chennai. Accordingly, I.D.O.P.No.27 of 2019 pending on the file of the Principal District and Sessions Judge Court, Nagercoil is to be withdrawn and transferred to the file of the Family Court, Chennai.

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

13.11.2019

Index: Yes/ No
Internet: Yes/ No

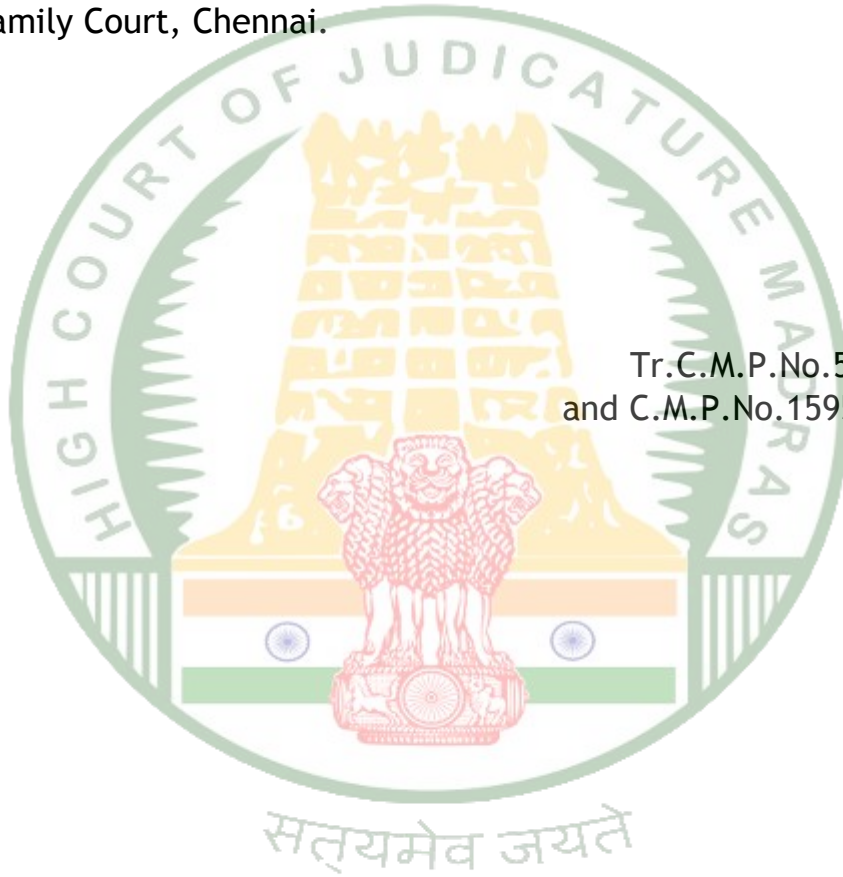
rka

V.BHAVANI SUBBAROYAN.,J.

rka

To

1. The Principal District and Sessions Judge Court, Nagercoil.
2. The Family Court, Chennai.



Tr.C.M.P.No.566 of 2019
and C.M.P.No.15959 of 2019

WEB COPY

13.11.2019