

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P. NO.671 OF 2019
AND C.M.P.NO.19226 OF 2019

Sarahsathyakala

... Petitioner

Vs.

Arokia Raj

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure seeking to withdraw the I.D.O.P.No.52 of 2019 pending on the file of Principal District Judge, Pudukottai and to transfer and to try along with I.D.O.P.No.23 of 2018 on the file of Principal District and Sessions Judge, Vellore.

For Petitioner : Mr.M.G.Udayashankar
for Ms.S.Shanthakumari

For Respondent : No appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed by the petitioner seeking to withdraw I.D.O.P.No.52 of 2019, pending on the file of Principal District Judge, Pudukottai and to transfer the same to the file of Principal District Judge, Vellore, to be tried along with I.D.O.P.No.23 of 2018.

2. The case of the petitioner is that she got married to the respondent on 14.12.2009 at St.Anthony Church, Pudukottai District, as per R.C. Christian Rites and Customs. After marriage, both of them were living at Eluppur, Pudukottai District. Out of the wedlock, one female child, namely Gratia was born on 23.11.2010 at C.M.C.Hospital, Vellore. The respondent/husband had an illicit intimacy with one Annapapu, who was working as Palvadi Teacher, along with the respondent. The said Annapapu, used to come to the matrimonial home of the petitioner and trying to take care of the respondent. The said Annapapu used to prepare food for the respondent. When the same

was questioned by the petitioner, she was beaten up and assaulted by the respondent. At that time, for the sake of the minor child only, the petitioner was bearing all the tortures given by the respondent. The respondent did not disconnect the relationship with the said Annapapu and continuing the torture by beating the petitioner after consuming alcohol. Even at the time of Baptizing the child, the respondent created problem to follow their rites and customs. The relationship between the respondent and Annapapu was not curtailed and he has also chosen not to change his character. At one point of time, the respondent chased away the petitioner and her child from the matrimonial home. After intervention of the elders of both families, on 21.10.2013, the petitioner re-joined the matrimonial home, with the respondent. Thereafter, the respondent made an attempt to kill the petitioner and her child by opening the Gas cylinder during night hours. Again difference of opinion arose between both the parties and the petitioner was again thrown out of the matrimonial home. At that point of time, the petitioner left all her jewels and other articles, which were given as Sreedhana to her, in the matrimonial home itself. The petitioner has also given police complaint against the respondent before the All Women Police Station, Vaniyambadi, on 24.03.2014 and also given complaint to the District Collector, for taking action against the respondent. Subsequently, the respondent sent a lawyer notice on 25.08.2015 and a reply was sent by the petitioner on 04.09.2015. As both the parties have followed two sets of religion, there were always difference of opinion regarding the ceremonies and could not decide on which custom to be followed. The petitioner also filed a petition in C.C.No.14 of 2015 before the Principal District Munsif cum Magistrate, Vaniyambadi, Vellore District, claiming maintenance, wherein the respondent did not appear and was set exparte and a sum of Rs.5,000/- per month was ordered as maintenance to the petitioner and her child. However, the respondent did not pay the same. Hence, his salary was attached and now, the petitioner is getting maintenance.

3. In the meantime, the respondent / husband filed a petition for restoration of conjugal rights before the Principal District Court, Pudukottai, in I.D.O.P.No.40 of 2017. The petitioner filed Tr.C.M.P.No.734 of 2018 before this Court seeking to transfer I.D.O.P.No.40 of 2017 from the file of Principal District Court, Pudukottai to the Principal District and Sessions Court, Vellore and the same was allowed on 02.04.2018. Accordingly, I.D.O.P.No.40 of 2017 was transferred to the file of Principal District Judge, Vellore and renumbered as I.D.O.P.No.23 of 2018.

4. The matrimonial proceedings in I.D.O.P.No.52 of 2019 was instituted by the petitioner herein seeking dissolution of marriage, before the Principal District Court, Pudukottai as the marriage had taken place at Pudukottai. The petitioner is now residing at Vaniyambadi, Vellore District, with her minor child along with her old age parents and she finds it difficult to travel from Vaniyambadi to Pudukottai, for contesting the case. Therefore, she seeks transfer of the said petition to the Principal District Court, Vellore, to be tried along with I.D.O.P.No.23 of 2018 filed by the respondent for restitution of conjugal rights.

5. This Court ordered notice on 05.09.2019 and the same was served on the respondent 20.09.2019. Despite service of notice, none appears on behalf of the respondent either in person or through counsel. Therefore, the Registry was directed to verify as to whether any vakalat has been filed on behalf of the respondent. It is now represented that no vakalat has been filed by the respondent.

6. Considering the inconvenience and physical hardship caused to the petitioner and also in the interest of justice, this Court is inclined to allow this Transfer Civil Miscellaneous Petition. Accordingly, I.D.O.P.No.52 of 2019 pending on the file of Principal District Judge, Pudukottai is withdrawn and transferred to the file of the learned Principal District Judge, Vellore, to be tried along with I.D.O.P.No.23 of 2018. Further, a direction is issued to the learned Principal District Judge, Vellore, to conduct joint trial and dispose of both the petitions, as expeditiously as possible.

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

s/d-
सहायमेव जयते

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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TK

To

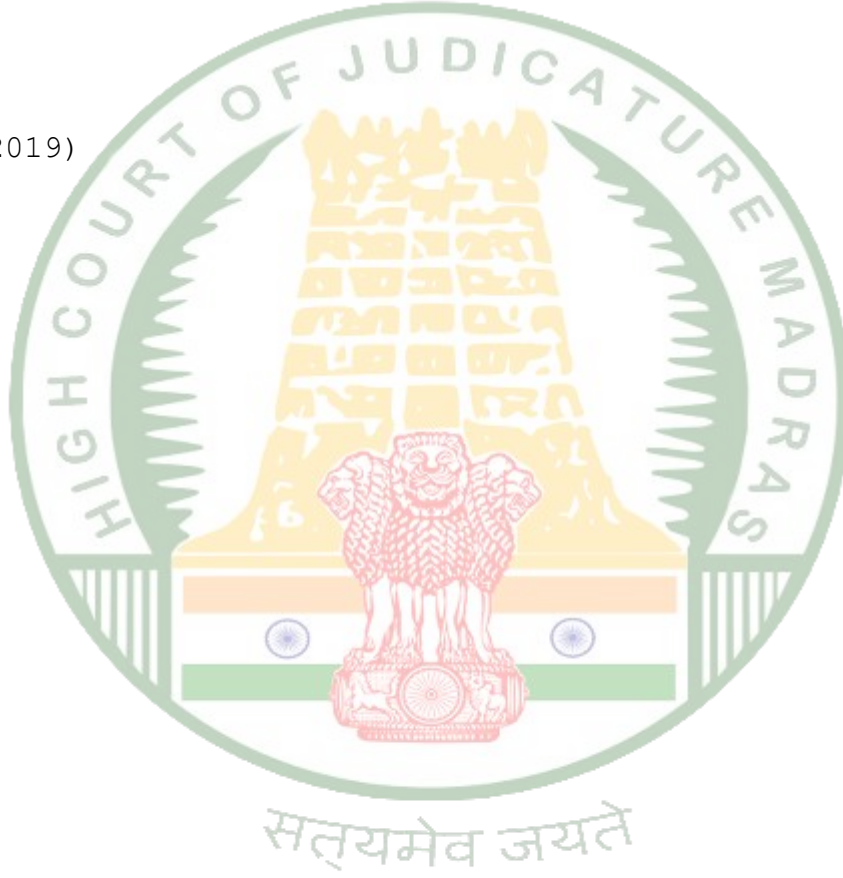
1.The Principal District Judge
Pudukottai.

2.The Principal District Judge
Vellore.

+1 CC to Mr.S. Shanthakumari, Advocate sr 89808

TR.CMP.NO.671 OF 2019

MR(CO)
SP(06/12/2019)



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