

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.17920 of 2019
and Crl.M.P.No.9033 of 2019

K.Thirumal

...Petitioner/Respondent

Vs.

Mohana Sundari

.... Respondent/ Petitioner

PRAYER : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to withdraw and transfer the above M.C.No.20 of 2017 pending on the file of learned Judicial Magistrate at Alandur to Vth Additional Judge at Chennai.

For Petitioner : Mr.Jerry V.V. Sundar

For Respondent : Mrs.Poongkhulali

O R D E R

This petition has been filed seeking to transfer the proceedings in MC.No.20 of 2017, which is now pending on the file of the learned Judicial Magistrate, Alandur.

2. The respondent has filed a maintenance case against the petitioner seeking for maintenance. Apart from the maintenance case, there is also a divorce proceeding pending in HMOP No.3802 of 2018, before the 5th Additional Family Court, Chennai. The petitioner seeks to transfer the maintenance case also before the 5th Additional Family Court, Chennai.

3. The learned counsel for the petitioner submitted that it will be convenient for both the parties, if both the proceedings come up before the same Court and there will be no multiplicity of proceedings.

4. The learned counsel for the respondent submitted that the respondent has filed the proof affidavit in the maintenance case as early as in June, 2018 itself and the same is pending without

any progress till now. The learned counsel further submitted that the petitioner has made various allegations against the respondent in the affidavit and all those allegations are denied. The learned counsel submitted that, if this Court is inclined to transfer the proceedings before the 5th Additional Family Court, Chennai, a time limit may be fixed for the completion of the proceedings since the case is pending from the year 2017 onwards.

5. This Court has carefully considered the submissions made on either side and also the materials available on record.

6. Taking into consideration the facts and circumstances of the case, this Court is inclined to transfer the proceedings in M.C.No.20 of 2017 pending on the file of the learned Judicial Magistrate, Alandur to the file of the 5th Additional Family Court, Chennai. This transfer will not cause any prejudice to the respondent since already the respondent is appearing before the concerned Family Court in the divorce proceedings. It is made clear that the allegations that have been made by the petitioner in the affidavit filed before this Court has not been taken into consideration by this Court and the transfer is ordered only after taking into consideration the convenience of the parties.

7. In the result, this Criminal Original Petition is allowed and there shall be a direction to the learned Judicial Magistrate, Alandur to immediately transfer the entire case records in MC No.20 of 2017 to the file of the 5th Additional Family Court, Chennai. This process shall be completed within a period of two weeks from the date of receipt of copy of this order. The 5th Additional Family Court, Chennai shall complete the proceedings in the maintenance case within a period of three months from the first hearing date fixed in the case. Consequently, connected miscellaneous petition is closed.

ssr

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Alandur.

2. The Vth Additional Family Court,
Chennai.

3. The Chief Judicial Magistrate,
Egmore, Chennai.

+2cc to Mr.B. Poongkhulali, Advocate, SR.No.65398

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Kak(26/09/2019)



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