

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:19.11.2019

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.544 of 2019
and
C.M.P.No.15341 of 2019

Kamatchi ..Petitioner/Respondent

Vs.

Jegan ...Respondent/Petitioner

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw and transfer the Marriage O.P.No.5 of 2019 on the file of Court of Subordinate Judge, Hosur, Krishnagiri District to the Court of Subordinate Judge, Vaniyampadi, Vellore District.

For Petitioner : Mr.Ramadoss for Mr.C.S.Vijayakumr

For Respondent : Mr.R.Jayaprakash

O R D E R

The petitioner herein filed this transfer Civil Miscellaneous Petition to withdraw and transfer the Marriage O.P.No.5 of 2019, on the file of Court of Subordinate Judge, Hosur, Krishnagiri District to the Court of Subordinate Judge, Vaniyampadi, Vellore District.

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 26.07.2017 at Adheeswarar Temple as per Hindu Rites and Customs. The reception was took place on 02.07.2017 at V.D.Marriage Hal, Krishnagiri District. The couples were set up their matrimonial home at Balaji Nagar, Hosur, Krishnagiri District. After few days of marriage, the respondent threatened the petitioner and attacked her. Thereafter, the petitioner lodged a complaint before the Inspector of Police, All Womens Police Station, Hosur and the Inspector of Police enquired both the parties and found that the petitioner has some mental disability and advised the respondent not to harass the petitioner and sent petitioner along with the

respondent back to their home. The petitioner alleges that the respondent is having illegal conduct with another lady at Hosur and caused cruelty to the petitioner and thereafter the respondent left the petitioner in her parents home on 05.07.2017. The respondent filed Marriage O.P.No.5 of 2019 dated 14.12.2018 before the Subordinate Judge, Hosur to resolve the marriage between the petitioner and respondent took place on 26.07.2017 and further compensation for mental agony. When the notice was issued to the petitioner to appear before the Court on 07.06.2019, the petitioner had appeared on 07.06.2019, inspite of threat from the respondent. The petitioner states that she is residing at her parents house at Vellore and she finds it difficult to travel from Vellore to Krishnagiri District. Therefore she prays this Court to transfer the M.O.P. No.5 of 2019 filed by the respondent from Subordinate Judge, Hosur, Krishnagiri District to Vellore District.

3. The learned counsel for the petitioner would submit that now the petitioner is residing at her parental home at Vellore. She is unemployed and spending more than Rs.1,000/- for travelling expenses to attend each hearing date and if the case is transferred to Vellore, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer of the case filed by the husband from Krishnagiri to Vellore.

4. The learned counsel for the respondent submitted that the wife has some mental disability. The learned counsel further submitted that she need not appear for all hearings and she can appear only for trial before the Subordinate Judge, Hosur, Krishnagiri District and prays for dismissal of this Transfer Miscellaneous petition.

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

6. On perusing the averments mentioned in the Affidavit filed by the husband in M.O.P.No.5 of 2019 there are serious allegations against the wife that she is not behaving as a normal person, which shall also be taken into account while deciding this issue.

7. 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 H.M.O.P.2216 of 2019 from the file of Subordinate Judge, Hosur, Krishnagiri to the file of Sub Court, Vellore.

8. In view of the above observations and taking note of the decisions laid down by the Hon'ble Supreme Court cited supr, this Court is inclined to transfer the case from Krishnagiri to Vellore. Accordingly, M.O.P. No.5 of 2019 pending on the file of the Subordinate Judge, Hosur, Krishnagiri, is to be withdrawn and transfer the same to the file of the Sub Court, Vellore.

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

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Subordinate Judge,
Hosur, Krishnagiri District.
2. The Sub Judge,
Vaniyambadi,
Vellore.

+lcc to Mr.R.Jayaprakash, Advocate Sr.96434

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srg 22/01/2020