



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.590 of 2019  
and  
C.M.P.No.17038 of 2019

Mrs.B.Sandhya

... Petitioner

Vs.

Dr.C.Arunkumar

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw and transfer the H.M.O.P No.2216 of 2019 from the file of the learned III Additional Family Court, Chennai to the file of Family Court, Tirunelveli.

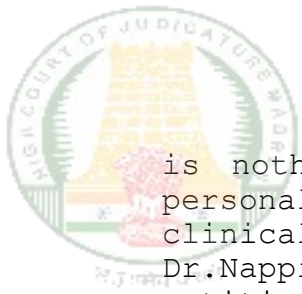
For Petitioner : Mr.Nambi Arooran

For Respondent : Mr.V.Jayachandran

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw and transfer the H.M.O.P No.2216 of 2019 from the file of the learned III Additional Family Court, Chennai to the file of Family Court, Tirunelveli.

2. The Respondent and petitioner are husband and wife. The marriage was solemnized between them on 27.05.2018 at Krishnaswamy Kalyana Mandampam, T.Nagar, according to Hindu Rights and customs. At the time of marriage, the parents of the petitioner offered a huge sum of money, gold jewels, cash and all other household articles as dowry to the respondent. After the marriage, the respondent took the petitioner to Singapore on 05.06.2018 and treated the petitioner cruelly. The respondent used to severely beat the petitioner. The respondent had an habit of always finding fault with the petitioner and finally, sent the petitioner back to India on 25.07.2018. On 21.08.2018, the respondent forced the parents of the petitioner and taken the petitioner to a private psychologist Viz., Dr.Nappinnai stating that she is suffering from psychological problems. The report of Dr.Nappinnai states that the petitioner "Shows features of obsessive personality". Further, the report states that the petitioner was having "Anakastic Features". Anakastic



is nothing but a person suffering from "obsessive compulsive personality disorder". She has recommended further evaluation by clinical psychologist. Based on the inconclusive report of Dr.Nappinnai hastily on 22.09.2018, the Respondent had filed a petition before the Principal Family Court, Chennai seeking for Divorce under Section 13(i-a) of the Hindu Marriage Act, 1955 along with an interlocutory application to waive the mandatory period of one year. The petitioner filed a counter affidavit in I.A.No.5423 of 2018 in O.P.Sr.No.15998 of 2018 and the matter was periodically adjourned, as the Respondent was in Singapore. Since the respondent did not take back the petitioner to matrimonial home, the petitioner filed an application under the Protection of Women from Domestic Violence Act, 2005. The said application has been numbered as D.V.A.No.5 of 2019 and the same is pending before the Judicial Magistrate No.4, Thirunelveli. Since, the petitioner/wife is the resident of Thirunelveli. she finds it difficult to travel from Thirunelveli to Chennai to attend the Court proceedings. Therefore, she seeks transfer of the H.M.O.P.No.2216 of 2019 filed by the husband before the III Additional Family Court, Chennai to Family Court, Thirunelveli.

3. The learned counsel for the petitioner submitted that the petitioner is now residing at her parental house at Thirunelveli and she has no separate income. The learned counsel further submitted that the respondent is working at Singapore and only to harass the petitioner, he filed a petition before the Family Court, Chennai. Hence, it is very difficult for the petitioner to travel from Thirunelveli to Chennai. Because of this, she is facing physical and financial issues. Therefore, it will be appropriate to transfer the case filed by the husband from Chennai to Thirunelveli.

4. The learned counsel for the respondent/husband has vehemently denied all the allegations made by the petitioner. The Counter affidavit has been filed by the father of the respondent, who is the power of Attorney holder stating the vulgarity of the petitioner towards the respondent.

5. This Court is not inclined to accept all the averments mentioned in the Counter Affidavit, as the entire disputes happened between the petitioner and the respondent and the same cannot be spoken by a third party, who is the father-in-law.

6. 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 III Additional Family Court, Chennai to the file of Family Court, Thirunelveli.

6. Considering the pleadings made by the wife in the accompanying affidavit and as per the orders of the Hon'ble Supreme Court, this Court is inclined to withdraw the H.M.O.P.No.of 2216 of 2019 pending on the file of III Additional Family Court, Chennai and the same be transferred to Family Court, Thirunelveli.

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

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Judge, III Additional Family Court, Chennai
2. The Judge, Family Court, Thirunelveli

+1 CC to Mr.S. Mr.Nambi Arooran, Advocate sr 95920

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and  
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SJ(CO)  
SP(20/12/2019)