

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.579 of 2019

and

C.M.P.No.16682 of 2019

V.Kaliyammal

... Petitioner

Vs.

M.Murugan

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw HMOP. No.124 of 2018 on the file of the Subordinate Court, Harur and transfer the same to the file of the Family Court, Salem.

For Petitioner : Mr.R.Rajadurai

For Respondent : Mr.J.Pradeep

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw HMOP. No.124 of 2018 on the file of the Subordinate Court, Harur and transfer the same to the file of the Family Court, Salem.

2. The Respondent and the petitioner are husband and wife. The marriage between them was solemnized on 23.01.2013 in the petitioner's house at Kankattiyalla Village, Valapady Taluk, Salem District as per the Hindu rites and customs. After the marriage, the petitioner was living in the respondent's house. In the lawful wedlock, a female child viz., Devadharshini was born on 07.09.2019. From the date of marriage, the respondent and his family members harassed the petitioner and demanded dowry. The respondent had illegal intimacy with other woman and usually, he received calls from somebody in his mobile during night hours and he continued with the conversation for more than an hour. When the petitioner asked about the act of the respondent, he had beaten the petitioner brutally and he had driven out his wife from the matrimonial home. The petitioner preferred a complaint before the All Women Police Station, Harur for demanding dowry. The Police officials pacified the issue between the couples and sent them to the respondent's house. Thereafter, the respondent has not harassed the petitioner for sometime. Again, the respondent and his family started to ill-

treat the petitioner. The respondent has filed a petition in HMOP.No.124 of 2018 before the Subordinate Court, Harur, for dissolution of marriage. Thereafter, the petitioner filed a petition for restitution of conjugal rights. She finds it difficult to travel from Valapady to Harur to attend the Court proceedings. Therefore, she seeks transfer of the petition filed by the husband from Harur to Salem.

3. The learned counsel for the petitioner/wife would submit that the petitioner along with her child is now living at Vazhapady in her parental home. It is very difficult for the petitioner to travel from Vazhapady to Harur along with her child. If the case is transferred to Salem, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer the case filed by her husband from Harur to Salem.

4. Per contra, the learned counsel for the respondent/husband has vehemently denied all the allegation made by the petitioner and filed counter affidavit to that effect. After the marriage, the petitioner did not treat him well. The petitioner left the matrimonial home without any valid reason and without informing the respondent. The petitioner has never acted as dutiful wife. On 08.06.2016, the petitioner's father and some henchmen assaulted the respondent's mother. Due to which, the respondent's mother has given a complaint before the Police Station, Harur. To escape from the criminal complaint, the petitioner has given a complaint against the respondent and his family members for demanding dowry, to the All Women Police Station, Harur, with false allegation. The said complaint was forwarded to the Social Welfare Officer, Dharmapuri and the same was enquired by the Social Welfare Officer who submitted a report stating that there was no demand of dowry made by the respondent and his family members. Even after the issue, the respondent was ready to live with the petitioner. But she was not willing to rejoin with the respondent. Only to harass the respondent, the petitioner has filed a Domestic Violence Case before the learned Judicial Magistrate, Vadapalani and filed a petition in HMOP No.38 of 2018 for Restitution of Conjugal Rights before the Sub Court, Salem. Hence, the respondent prays to dismiss this petition filed by the petitioner.

5. Heard the learned counsel for the petitioner as well as the respondent and also perused the materials available on record.

6. It is seen from the records that both the petitioner and the respondent have filed two different proceedings in two different places.

7. Considering the convenience of both the parties and in order to avoid multiplicity of proceedings, this Court is inclined to transfer the case in HMOP. No.124 of 2018, pending on the file of the Subordinate Court, Harur and transfer the same to the file of the Sub Court, Salem, to try along with the case in HMOP.No.38 of 2018 filed by the petitioner. Accordingly, the case in HMOP. No.124 of 2018 pending on the file of the Subordinate Court, Harur is withdrawn and transferred to the file of the Sub Court, Salem, to be tried along with the case in HMOP.No.38 of 2018 filed by the petitioner. The learned Subordinate Judge, Harur is directed to transfer the case in HMOP. No.124 of 2018 to the Sub Court, Salem within a period of four months from the date of receipt of a copy of this order. The wife has filed a petition for restitution of conjugal rights before the Sub Court, Salem. If the parties are interested to sort out the issues, they are directed to appear before the Mediation Centre, Salem, after filing appropriate petition before the said Court.

8. In view of the above submissions made by both the counsel, this Court directs both the parties to maintain discipline and decorum before the Court below and also cooperate with the proceedings.

9. With the above observations and directions, this Transfer Civil Miscellaneous Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Subordinate Judge, Salem.
- 2.The Subordinate Judge, Harur.

+1cc to M/s.C.Prabakaran, Advocate Sr.No.90285

AKM/19.12.19 /3P-4C/

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