

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.11.2019

Coram

THE HON'BLE MRS. JUSTICE BHAVANI SUBBAROYAN

Tr.C.M.P.No.741 of 2019

and

C.M.P.No.20770 of 2019

R.L.Vinothini,
D/o.Lakshminarayanan

...Petitioner

Vs.

J.Naren
S/o.Jeeva

...Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Cr.P.C., to withdraw the petition for restitution of conjugal rights in OP. No.3348 of 2018, on the file of the II Additional Family Court, Chennai and transfer the same to the file of the Principal Subordinate Court, Thanjavur.

For Petitioner	: Mr.Swaminathan S.S.
For Respondent	: Mr.M.Ganesan

O R D E R

This Transfer Civil Miscellaneous Petition has been filed by the petitioner to withdraw the petition in OP. No.3348 of 2018, on the file of the II Additional Family Court, Chennai and transfer the same to the file of the Principal Subordinate Court, Thanjavur.

2. The respondent and the petitioner are husband and wife. The marriage between the parties was solemnized on 29.08.2019 at Indira Thirumana Mandapam, Valasaravakkam, Chennai, as per the Hindu rites and customs. After the marriage, the couples were lived together at Chennai and Bangaluru. Later, the petitioner has got a job at Thanjavur in Sastra University as Assistant Professor. Due to misunderstanding, the couples were living separately from March 2018. The petitioner found that the respondent is unfit to have sexual relationship with the petitioner and also the respondent is not cooperating and willing to go for any treatment. The respondent is having

relationship (GAY) with some one. When the petitioner informed about the same to his family, they refused to accept the attitude of the respondent. To escape from the criminal action, the respondent has filed a petition for restitution of conjugal rights in OP. No.3348 of 2018 before the Family Court, Chennai with false allegations. Thereafter, the petitioner has also filed a divorce petition before the Sub Court, Thanjavur in HMOP. No.116 of 2019. The petitioner/wife is a resident of Thanjavur. Hence, she seeks transfer of the case filed by the husband from Chennai to Thanjavur.

3. The learned counsel for the petitioner would submit that the the petitioner is undergoing her research studies in the Department of Management at Sastra University, Thanjavur. The respondent is also residing in Thanjavur. If the case is transferred to Thanjavur, no prejudice would be caused to the respondent. Further, it is very difficult for the petitioner to travel alone from Thanjavur to Chennai for attending the Court proceedings. Hence, the petitioner came this Court by way of this petition, seeks transfer of the case pending before the Family Court to the file of the Sub Court, Thanjavur.

4. The learned counsel appearing for the respondent would submit that at the time of separation, the couples were residing at Chennai. Therefore, the respondent filed a restitution petition before the Family Court, Chennai. The respondent has no objection to transfer the petition to Sub Court, Thanjavur.

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

6. A perusal of the entire materials, the petitioner herein has given three different addresses in the petition (Chennai, Trichy and Thanjavur). The Court cannot be used as a Forum, wherever the petitioner wants to transfer the case as per her wish. The petitioner and the respondent have filed two different petitions in two different places. It is made clear that the respondent has no objection to transfer the case to Thanjavur.

7. Considering the convenience of the parties, the respondent has no objection and in order to avoid conflicting orders, this Court is inclined to withdraw the case in OP. No.3348 of 2018, on the file of the Family Court, Chennai and transfer the same to the Sub Court, Thanjavur.

8. Accordingly, OP. No.3348 of 2018, on the file of the Family Court, Chennai is to be withdrawn and transferred to the

file of Sub Court, Thanjavur, to be tried along with HMOP. No.116 of 2019.

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

10. The parties are directed not to file any other petition for transferring the cases from Thanjavur, till the disposal of the above said cases. It is made clear that the respective parties shall cooperate with the proceedings.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Judge, Family Court, Chennai.

2. The Subordinate Judge, Thanjavur.

+1 cc to M/s.S.S.Swaminathan,Advocate Sr.No. 91471

+1 cc to M/s.M.Ganesan, Advocate Sr.No.91850

AKM/18.12.19/3P-5C /

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