

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2019

CORAM

THE HON'BLE Mrs. JUSTICE V. BHAVANI SUBBAROYAN

Tr.CMP.No. 667 of 2019

and

CMP No. 19181 of 2019

Mrs. D. Sophia Princes

..Petitioner/Respondent

vs

Mr. S. J. James Christoper Rajaiah

... Respondent/Petitioner

Prayer: Transfer Petition is filed under Section 24 of the Civil Procedure code praying to withdraw D.V.O.P.No.68 of 2019 pending before the District Judge II Court at Kancheepuram and transfer the same to the file of Family Court at Chennai.

For Petitioner : Mr. L. Prakash

For Respondent : Mr. Adinarayana Rao

O R D E R

The petitioner herein is the wife who seeks to withdraw the D.V.O.P.No.68 of 2019 pending before the District Judge II at Kancheepuram and transfer the same to the file of Family Court at Chennai.

2. The case of the petitioner is that she married the respondent on 13.11.2015 at C.S.I. Church, No.101 Railway Road, Kancheepuram as per Christian rites and customs.

3. From the date of marriage, the petitioner acted as a dutiful wife to the respondent and his family but the respondent quarreled with the petitioner without any reason and abused her using filthy and vulgar language and she was also made to suffer several harassments at the hands of the respondent and his family. The petitioner tolerated all the harassments with the hope that respondent will change his character at any time but instead of changing it became worse and the petitioner was beaten and thrown out of the matrimonial home by the respondent and his family.

4. The petitioner is having a child who is three years old. Since she is unemployed, she is staying in her parent's home at

Avvai Nagar West Street, Choolaimedu, Chennai and she cannot travel to Kancheepuram taking the 3 years old child which is 80 kilo meter away to attend the proceedings at Kancheepuram. She also apprehends that the respondent's family may cause danger to her life and as they were threatening her to give divorce on mutual consent. As the petitioner is from a very poor family, she expresses her inability to afford the travelling expenses. The respondent husband who is residing in Muscat, Sultanate of Oman has filed counter affidavit opposing the said transfer petition. He submits that the OP filed for transfer itself is with ill motivated intentions only to cause harm to the respondent as her earlier attempt to murder the respondent made on 09.05.2019 had not been successful. On 09.05.2019, the respondent was lying unconsciously in the pool of blood and the police admitted the respondent in the Government Hospital. Further the petitioner lodged a false complaint, due to which a lookout circular was issued for the respondent whereby if the respondent returns to India he will be first arrested and remanded without any cause. The respondent is also taking steps to revoke the lookout circular legally.

5. The respondent submits that the wife had spent all the money given by him which was sent to India for family expenses as well as for some saving. He has also purchased large quantity of gold as jewellery to the petitioner wife who had swindled everything while leaving the house. The salary amount was also not properly utilized and he does not know what she has don't to the amount sent by him. He further submits that only on the cruelty by the said wife, the husband has filed the present DVOP.No.68 of 2019 seeking to dissolve the marriage held between the petitioner and the respondent on 13.11.2015 at C.S.I. Church, No.101 Railway Road, Kancheepuram. He also sent legal notice to the wife seeking her consent for mutual divorce. The learned counsel for the respondent has also submitted that due to her illegal activity, the husband had faced untold misery and torture that she used to abuse the respondent and his parents. She has also given a police complaint and one relative of her one Advocate by name Kanagaraj had threatened him in the under the guise of petition enquiry. He used to attend the police station without there being any actual enquiry.

6. On 09.05.2015, the respondent was lonely sitting in his house, the petitioner came inside the house with her younger sister, maternal aunt and three rowdy elements, locked the house inside, beaten the respondent and caused bleeding injuries to him over his head and insisted him to handover the passport.

When he refused to heed her demand, they broke the bureau and his motor cycle with iron rods, and took all the documents kept by him in the bureaus, two cell phones kept by him along with the valuables. By causing grievous injuries, the wife has caused cruelty as she had tried to murder the respondent and he has also been threatened by one Advocate Kanagaraj that he will take care of him when he returns and he also fears that his life is in danger and prays that the petition should not be transferred to Chennai. It is seen from the above pleadings, that the wife is residing at Chennai and the husband is in a foreign country and a report has been received that he will not be in a position to come to India to defend his case. The learned counsel for the respondent would submit that also taking legal for quashing the same.

7. The learned counsel for the petitioner would submit that she is having a three year old child and seeks for transfer.

8. In view of the Hon'ble Supreme Court ruling that while transferring the matter, the wife place should be taken in account while passing an order of transfer.

9. In view of the same even though there are allegations and counter allegations, this Court is not inclined to deal with it and hence this Court is inclined to transfer the case DVOP.No.68 of 2019 pending before District Court II at Kancheepuram and transfer the same to the Family Court at Chennai. It is made clear that the parties concerned are directed to maintain the decorum of the Court and there should not be indulgence of any sort of violence during the Court proceedings. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

सत्यमेव जयते Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mrn

To

1.The District Court No.II
Kancheepuram.

3/4

2.The Family Court,
Chennai

+lcc to Mr.L.Prakash, Advocate sr.93518

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sj (co)
nr 08/01/2020



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