

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.11.2019

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.662 of 2019

and

C.M.P.No.19123 of 2019

Nithya

..Petitioner/ Petitioner

Vs.

Prakash

...Respondent/ Respondent

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the case in HMOP. No.134 of 2019 on the file of the learned Principal Sub Judge, Myladuthurai, Nagapattinam District and transfer the same to the file of the learned Sub Judge, Poonamallee or any other Family Court, Chennai.

For Petitioner : Mr.S.Sasikumar

For Respondent : Mr.M.Kumaravel

O R D E R

This petition has been filed to withdraw the case in HMOP. No.134 of 2019, on the file of the learned Principal Sub Judge, Myladuthurai, Nagapattinam District and transfer the same to the file of the learned Sub Judge, Poonamallee or any other Family Court, Chennai.

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 03.04.2016 at Arulmigu Vaithyanathasamy Temple, Vaitheeswaran Koil as per Hindu Rites and Customs. Thereafter, the marriage reception was conducted at Star Mahal, Kuthalam on 03.04.2016. After marriage, the petitioner was living in matrimonial house and initially, the couples were lead a life peacefully. Out of the wedlock, a male child namely Sanjay was born on 05.01.2017. Thereafter, the ill advice of the parents, the respondent started to ill-treat the petitioner and he picked up quarrel with his wife frequently and abused her in filthy language. The respondent demanded a new car from the petitioner's parents. When the same was refused by the petitioner, the respondent harassed her and he has driven out the petitioner and his child from the matrimonial home. Thereafter, the petitioner has filed a maintenance case before

the learned Judicial Magistrate, Ambattur in M.C.No.43 of 2018 and the same is pending. The respondent has filed a petition in HMOP. No.134 of 2019 on the file of the learned Principal Sub Judge, Myladudurai, Nagapattinam District for restitution of conjugal rights with false allegation. The petitioner is the resident of Chennai. Therefore, she finds it difficult to travel from Chennai to Myladuthurai. Hence, she seeks transfer of the petition in HMOP. No.134 of 2019 pending on the file of the Sub Court, Myladuthurai to the file of the Sub Court, Poonamallee.

3. The learned counsel for the petitioner would submit that now the petitioner and her child are living in her parental home at Chennai. She is depending upon her parents for her livelihood. Despite having sufficient means, the respondent neglected to give money to the petitioner. Therefore she filed a maintenance case before the learned Judicial Magistrate, Ambattur and the same is pending. Only to harass the petitioner, the respondent has filed the petition before the Sub Court, Myladuthurai. The learned counsel for the petitioner would further submit that being a lady, the petitioner could not travel alone from Chennai to Myladuthurai for attending Court proceedings. If the case is transferred to Bhavani, no prejudice would be caused to the respondent. Therefore, it will be appropriate to transfer of the case filed by the husband from Myladuthurai to Poonamallee.

4. The learned counsel for the respondent would submit that the respondent is ready and willing to rejoin with the petitioner and he prays to place the matter before the mediation centre.

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

6. Considering the facts and convenience of both the parties, this Court is inclined to transfer the case from Myladuthurai to Poonamallee. Accordingly, HMOP. No.134 of 2019 pending on the file of the Sub Court, Myladuthurai, Nagapattinam District is to be withdrawn and transferred to the file of the Sub Court, Poonamallee.

7. The learned counsel for the respondent submitted that the respondent is willing to rejoin with the petitioner. Therefore, this Court is directed the learned counsel for the petitioner to verify as to whether the petitioner is willing for reunion with the respondent and also find out is there any possibility for reunion. If so, the parties are directed to file appropriate petition before the lower court and place the matter before the mediation. Further, this Court directs both the parties to maintain discipline and decorum before the Court below and also cooperate with the proceedings.

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

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Judge, Sub Court, Myladuthurai.
2. The Sub Judge, Sub Court, Poonamallee.

+1cc to Mr.S.Sasikumar , Advocate SR.No. 90626

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A.SK(13/12/2019)