

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2019

CORAM

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P.NO.686 OF 2019

AND

C.M.P.NO.19590 OF 2019

S.Mercy Hillda

... Petitioner

Vs.

Patrick Jones

... Respondent

PRAYER:

Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the case filed in IDOP. No.227 of 2019 on the file of the Family Court, Trichy and transfer to the Family Court, Chennai.

For Petitioner	:	Mr.S.Siva shankar
For Respondent	:	Mr.R.Ganesh kumar

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the case filed in IDOP. No.227 of 2019 on the file of the Family Court, Trichy and transfer the same to the file of the Family Court, Chennai.

2. The Respondent and the petitioner are husband and wife. The marriage between them was solemnized on 04.02.2018 at St.Mary's Church, Melapudur, Trichy as per the Christian rites and customs. After the marriage, the respondent demanded a car from the father of the petitioner. The parents of the petitioner was gifted 65 sovereigns of gold ornaments and household articles for the marriage. Not satisfied with the same, the respondent and his family members demanded dowry from the petitioner's father. Even the petitioner went to church for solace, the respondent and his family members doubted her fidelity. During her pregnancy, the respondent used to drunk and forced the petitioner for pervert actions and also assault her physically as well as verbally. Without any option, the petitioner left the matrimonial home. After compromising both the family, the couples were set up a new house in Bangalore.

Due to the misunderstanding between them, the petitioner left from the house. On 19.11.2018, a male child was born to them. But the respondent and his family did not accept that the child was born to the respondent. Till date, the respondent has not named his child. The petitioner has filed a petition in HMOP.No.3094 of 2019 before the Family Court, Chennai seeking restitution of conjugal rights. Thereafter, the respondent filed a petition in IDOP. No.227 of 2019 before the Family court, Trichy for dissolution of marriage. She finds it difficult to travel from Chennai to Trichy to attend the Court proceedings. Therefore, she seeks transfer of the petition filed by the husband from Trichy to Chennai and to be tried along with the petition filed by the petitioner.

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

4. 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 treated him well and the petitioner and her family started to dominate the respondent. The petitioner left the matrimonial home at Bangalore without any valid reason. After mediation, legal notice and reply notice, the petitioner came back to the matrimonial home for one week. Again, she left the home and preferred a false complaint (DVC) against the respondent before the police and protection officer. The respondent never demanded a car and jewel as stated by the petitioner. The petitioner's family is influential person and several times, they threatened the respondent and also assaulted him, If the case is transferred to Chennai, it may cause serious harm to the respondent's life. The petitioner's family is having money and muscle power. Therefore, it is very hard and dangerous for the respondent to appear before the Chennai Court. 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 from Trichy to Chennai. Accordingly, IDOP. No.227 of 2019 pending on the file of the Family Court, Trichy is to be withdrawn and transferred to anyone of the Family Court, Chennai, to try along with the petition in HMOP No.3094 of 2019 on the file of the Family Court, Chennai, filed by the petitioner for restitution of conjugal rights.

8. In view of the 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 III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Judge, Family Court, Trichy
- 2.The Judge, Family court, Chennai.

+1cc to Mr.R.Ganesh kumar, Advocate, S.R.No.88319

TR.C.M.P.No.686 of 2019
and
C.M.P.No.19590 of 2019

NMI (CO)
CS/28/11/2019