

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR C.M.P. No.687 of 2019
and
C.M.P.No.19593 of 2019

Vidhya

... Petitioner

Vs.

Hari Prasad

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under section 24 of C.P.C., to withdraw the F.C.O.P.No.199 of 2019 from the file of Family Court, Vellore and transfer the same to the file of the Subordinate Court, Thiruvannamalai.

For Petitioner : M/s.Na.Malai Saravanan

For Respondent : Notice served - No appearance

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw and transfer F.C.O.P.No.199 of 2019 on the file of the Family Court, Vellore to the Subordinate Court, Thiruvannamalai.

2. The case of the petitioner is that the marriage between the petitioner and the respondent was solemnized on 02.02.2017. The parents of the respondent and petitioner's co-sister started ill-treating her and she was like a slave in the matrimonial house. The co-sister and mother-in-law tortured the petitioner and particularly the co-sister never allowed the petitioner to live with the respondent. The petitioner gave birth to a male child on 24.11.2017. The respondent is an alcoholic person and used to quarrel with the petitioner and torture her. He also had an illicit relationship with a lady who was running a beauty parlour in Vellore. Hence the petitioner stayed at her parents house at Thiruvannamali. Thereafter the petitioner and the respondent united again due to family elders and well wishers and started living in Enjambakkam, Chennai. The co-sister of the petitioner started living in Palavakkam, Chennai and started torturing her and started giving wrong advise to the respondent and never permitted the petitioner to live a happy

life with the respondent. Hence with no other option the petitioner filed a Domestic Violence Case before the learned Judicial Magistrate II, Thiruvannamalai seeking maintenance and other reliefs. As a counter blast the respondent filed a petition against the petitioner/wife before the Family Court, Vellore in F.C.O.P.No.199 of 2019 by alleging untenable allegations.

3. The learned counsel for the petitioner submitted that the petitioner is a sick patient and taking treatment. The respondent has not taken care of the petitioner and the child. Only to harass the petitioner the respondent has filed a petition before the Family Court, Vellore and she is living with her parents in Tiruvannamali along with her minor child and it is absolutely difficult for her to travel from Tiruvannamali to Vellore along with her child for each of the hearing. Hence, the transfer is sought for.

4. This Court ordered notice to the respondent through Court as well as privately and the same was served on him. In spite of giving sufficient opportunities, the sole respondent has not entered into appearance before this Court either in person or through his counsel. Therefore, this court is inclined to pass orders on merits in accordance with law.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. Taking into consideration the submission made by the learned counsel for the petitioner and the well settled law that whenever, the transfer application is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Supreme Court in the Judgments reported in 2008 (9) SCC 353 [Arti Rani @ Pinki Devi and another Vs. Dharmendra Kumar Gupta] and AIR 2002 SC 396 [Sumita Singh Vs. Kumar Sanjay and another]. Further, the petitioner has also given valid and sufficient reasons to transfer the case in F.C.O.P.No.199 of 2019 from the file of Family Court, Vellore to the Subordinate Court, Thiruvannamalai.

7. Taking into consideration the above facts and circumstances of the case and the decision of the Hon'ble Supreme Court Arti Rani @ Pinki Devi's case, both F.C.O.P.No.199 of 2019 pending on the file of the Family Court, Vellore and D.V.C.No.5 of 2019, pending on the file of the Judicial Magistrate -II, Thiruvannamalai are transferred to Subordinate Court, Thiruvannamali to be tried together. The Presiding Officer, Family Court, Vellore and learned Judicial Magistrate II, Thiruvannamalai is directed to transmit all the records pertaining to F.C.O.P.No.199 of 2019

and D.V.C.No.5 of 2019 to the file of the Sub Court, Thiruvannamalai within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, this Transfer Civil Miscellaneous petition is ordered. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

dpq

To

- 1.The Judge,Family Court, Vellore
- 2.The Judge, Subordinate Court, Thiruvannamalai.
- 3.The Judicial Magistrate-II,
Thiruvannamalai

+1cc to M/s.Na.Malai Saravanan , Advocate SR.No. 98118

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A.SK(20/01/2020)