

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.712 of 2019
and
C.M.P.No.22359 of 2019

S.Ijas Parveen

... Petitioner

Vs.

A.Abdul Huq

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the OS No.186 of 2015 pending on the file of the District Munsif-cum-Judicial Magistrate Court, Sriperumbadur and transfer the same to Sub Court, Alandur.

For Petitioner : Mrs.P.Stella Mary

For Respondent : No Appearance

O R D E R

This Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the OS No.186 of 2015 pending on the file of the District Court, Sriperumbadur and transfer the same to Sub Court, Alandur.

2. The Respondent and petitioner are husband and wife. The marriage was solemnized between them on 10.11.2013 at M.J.Adam Mahal, Mangadu, consequent upon its registration on 15.06.2014 at the office of the Chief Kazi to the Government of Tamil Nadu by a decree of divorce on the ground of cruelty. The respondent averred false and frivolous allegation against the petitioner in the said OS contradicting the real fact. The respondent father passed away on 11.11.2013 on the next day of the marriage due to ill health. The respondent and his family members abused the petitioner that she is unlucky to the family and from that day onwards, the respondents and family members ill treated the petitioner. Further, the respondent started giving sexual tortures to the petitioner in an unnatural way and started video graphing the petitioner during such time. When the petitioner started objecting such illegal act, the respondent physically abused the petitioner. The respondent always porn photos and videos in his mobile and the petitioner was shocked, when she came to know of the same.

Since the petitioner hail from a reputed family, she did not give any complaint with regard to the same.

3. The petitioner filed a petition for maintenance in M.C.No.5 of 2016 claiming monthly maintenance of Rs.15,000/-, till the disposal of the O.S and also claimed a sum of Rs.4,00,000/- for the expenses that occurred for the treatment of small intestinal bowel obstruction due to the physical abuse of the respondent herein inflicted on the petitioner. Further, the petitioner claimed back 25 sovereigns of gold and Sridhana Articles, which were given during the time of marriage. On 27.02.2014, the respondent made physical abuse by kicking the petitioner on her abdomen in front of her parents due to which she was taken to the hospital and was under taken treatment for intestinal bowl obstruction in M/s.Sooriya Hospital, Vadapalani. The petitioner had also given a complaint before the Chief Kazi on 09.11.2014 about the behaviour of the respondent and all the acts done by the respondent, since it was the Chief Kazi who has solemnized the marriage between the petitioner and the respondent.

4. The petitioner also filed a petitioner under Section 12, 17, 18, 19, 20, 22 under Domestic Violence Act in D.V.C.No.2 of 2016 praying for conjugal rights of the petitioner and also not to sell the gold jewels of 25 Soverings which was given at the time of marriage and claimed a sum of Rs.2,00,000/- for mental agony as cost. After the petitioner discharged from the hospital, went to meet the respondent in his office M/s.HBN Diaries & Allied Private Limited at Kanchipuram, where she saw the respondent with another lady named Soundaraya in a very close manner. On seeing the petitioner, the respondent physically abused and beat the petitioner and pushed her out of his office. Hence, the petitioner gave a police complaint on 24.06.2015 before Mangadu Police Station and filed CSR No.946/T14PS/15. Further a complaint was filed before the W3, All Womens Police Station at St. Thomas Mount under Section 406, 498 (A) IPC and 4 of Dowry Prohibition Act. An FIR was also registered with respect to the same in FIR No.1 of 2016 and Charge sheet was also filed against the respondent. The same was filed before the Judicial Magistrate, Alandur in C.C.No.826 of 2016 and the same is pending till date. While that being the case, the respondent apprehending arrest at the hands of the police had filed Crl.OP No.5670 of 2016 and this Court vide order dated 15.03.2016 had referred the matter to Mediation centre and no settlement was arrived at between the parties, this Court had granted Anticipatory Bail on 13.04.2016 in favour of the respondent. The petitioner states that the respondent family is politically influential and therefore, it is very hard and dangerous for the petitioner to appear before the District Munsif cum Judicial Magistrate Court, Salem. Therefore, she seeks transfer of the O.S.No.186 of 2015 pending on the file

of the District Munsif cum Judicial Magistrate Court, Sriperumbudur to Sub Court, Alandur.

5. The learned counsel for the petitioner submitted that the petitioner is now residing at her parental house at Moulivakkam and her parents also not doing well to accompany her for every date of hearing. The learned counsel further submitted that the respondent is having money and muscle power. Therefore, it is very hard and dangerous for the petitioner to appear before the District Munsif cum Judicial Magistrate Court, Sriperambudur. Hence, it is very difficult for the petitioner to travel from Alandur to Sriperambudur. Because of this, she is facing physical and financial issues. Therefore, it will be appropriate to transfer the case filed by the husband from Sriperambudur to Alandur.

6. From the above stated facts it is very clear that the husband has tortured the wife on several occasions and various proceedings are also pending before the Court below.

7. This Court ordered notice and private notice to the respondent on 17.09.2019. Though both the notice was served to the respondent on 25.10.2019 & 26.10.2019, there is no representation on behalf of the respondent either in person or through counsel. This Court again by an order dated 12.11.2019 directed the Registry to verify whether any vakalat has been filed and the same was verified by the Registry and found that no vakalat has been filed.

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

9. Though notices were served on the respondent on 26.09.2019 & 25.09.2019 but till date, the respondent has not taken any steps either to engage a counsel or to appear in person before this Court and hence, this Court is inclined to allow this Transfer Civil Miscellaneous petition filed by the wife in the absence of any objection from the respondent / husband. Accordingly, the O.S.No.186 of 2015 pending on the file of District Munsif cum Judicial Magistrate Court, Sriperambudur, is withdrawn and transfer the same to the file of the Sub Court, Alandur.

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

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The District Munsif cum Judicial Magistrate Court,
Sriperambudur.

2.The Sub Court, Alandur.

+2cc to Mrs.P.Stella Mary, Advocate SR.95860

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and
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RK(CO)
CB(21/01/2020)