

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.10.2019

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.661 of 2019

and

C.M.P.No.19078 of 2019

Gajalakshmi

..Petitioner

Vs.

E.Monaharan

...Respondent

Prayer: The Transfer Civil Miscellaneous Petition is filed under Section 24 of Civil Procedure Code, to withdraw the FCOP. No.136 of 2019 pending before the Family Court, Chengalpet and transferred to the Family Court, Cuddalore, Cuddalore District.

For Petitioner : Mr.S.Vijayakumar

For Respondent : Mr.K.Rangesh
for Jayaraman Associates

O R D E R

This petition has been filed by the petitioner seeking to withdraw the FCOP. No.136 of 2019 pending before the Family Court, Chengalpet and transfer to the file of the Family Court, Cuddalore, Cuddalore District.

2. The case of the petitioner is that the respondent and the petitioner are the husband and wife. The marriage was solemnized between the parties on 10.12.2014 at Tirumala Temple, Tirupathi. After the marriage, the couples were living together in the matrimonial home. The respondent is working as Senior HR Manager in Ashok Leyland Company, Chennai. In the lawful wedlock, a male child was born on 31.10.2015. The respondent is a divorcee and thereafter, he got married to the petitioner. After the second marriage of the petitioner, the respondent and his family members demanded dowry from the petitioner and ill-treated her. Due to which, the petitioner has lodged a complaint against the respondent and his family members on 17.12.2016 before the All Women Police Station, Chengalpet. As a counter

blast, the respondent has filed a petition for divorce in FCOP. No.136 of 2019 before the Family Court, Chengalpet. The petitioner/wife is a resident of Cuddalore. Hence, she seeks transfer of the case from Chengalpet to Cuddalore.

3. The learned counsel for the petitioner would submit that the petitioner and her child are now living in her parental home at Cuddalore District. The petitioner is unemployed and she is depending upon her aged parents for her livelihood. She has to travel nearly 136 kms. to attend the Court proceedings. It is very difficult for the petitioner to travel along with infant. If the case is transferred to Cuddalore, no prejudice would be caused to the respondent. Therefore, she prays this Court to transfer of the divorce petition filed by the respondent to the file of the Cuddalore.

4. The learned counsel for the respondent would submit that the respondent has vehemently denied all the allegations made by the petitioner and he has also filed counter affidavit to that effect. The respondent and his family members have never demanded any dowry at any point of time. Before the marriage, the respondent has appraised the petitioner that he is the only person to take care of his aged parents and the petitioner has also accepted the same. But, after the marriage, they were lived together in Mannivakkam, Chennai as joint family. After that, the petitioner used to harass the parents of the respondent and she never cooked for them. The petitioner has lodged a complaint against the respondent and his parents before the All Women Police Station, Chengalpattu with an intention to send out the parents from the house. On 19.05.2019, the respondent's father died. Because, the petitioner ill-treated him. But the petitioner and her relatives have not attend the funeral of the respondent's father. Further, the learned counsel for the respondent would submit that the petitioner has filed criminal proceedings, only to harass the respondent. If the case is transfer to Cuddalore, it may cause serious harm to the respondent's life. The petitioner has a very good social support in her village and nearby village in and around Cuddalore and her relatives and friends are spread over in Cuddalore. Therefore, it is very hard and dangerous for the respondent to appear before the Court at Cuddalore. Hence, the learned counsel for the respondent prays to dismiss this petition.

5. Heard the learned counsel for the petitioner as well as the respondent and perused the materials on record.

6. It is not in dispute that the petitioner and the respondent are husband and wife, there is no dispute with regard

to the marriage and paternity of the child and both are living separately. It is seen from the records that the husband has filed a divorce petition before the Family Court, Chengalpet. The petitioner is living at Cuddalore and the child is under the care and custody of the petitioner and the respondent is resident of Chennai.

7. Considering the convenience of both the parties, this Court is inclined to transfer the petition from Chengalpet to Puducherry. Accordingly, the petition in FCOP. No.136 of 2019 pending on the file of the Family Court, Cuddalore is withdrawn and transferred to the file of the Family court, Puducherry. The parties are directed to cooperate with the proceedings.

8. With the above directions, the transfer Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judge, Family Court, Chengalpet.
2. The Judge, Family Court, Puducherry.

+1 cc to M/s.Jayaraman,Advocate Sr.No. 87872

+1 cc to M/s.S.Vijayakumar,Advocate Sr.No. 89885

AKM/16.12.19/3P-5C /

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