

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.11.2019

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

TR.C.M.P.No.683 of 2019
and C.M.P.No.19495 of 2019

Anitha ... Petitioner/Respondent

Vs.

R.Dinesh Babu ... Respondent/Petitioner

Transfer Civil Miscellaneous Petition is filed under Section 24 of the Code of Civil Procedure, to withdraw the divorce petition filed by the respondent in H.M.O.P.No.93 of 2019 on the file of the Sub Court, Ranipet and transfer it to the Family Court, Cuddalore to be tried along with H.M.O.P.No.283 of 2018.

For Petitioner : M/s.R.Meenal

For Respondent : Mr.K.V.Ananthakrishnan

ORDER

The petitioner has filed this petition, seeking transfer of H.M.O.P.No.93 of 2019, pending before the Sub Court, Ranipet and transfer the same to the Family Court, Cuddalore for joint trial along with H.M.O.P.No.283 of 2018.

2. The petitioner is the wife and the respondent is the husband. The case of the petitioner is that she got married to the respondent on 22.01.2018, as per Hindu rites and customs at Balaji Mahal, Walajapet. At the time of betrothal, the respondent's family insisted for 30 sovereigns of gold jewels and Rs.3,00,000/- in cash and the same was gifted to the respondent's parents at the time of marriage. During changing of mangalsutra fitting and it in new chain function, the respondent's father suddenly insisted for 7 sovereigns gold chain from the petitioner's parents for showing the respondent's status. Further that, the respondent and his family members were ill-treated, harassed and humiliated her under the guise of demanding dowry and have repeatedly stated that they are from a higher status and her family is from an inferior status. The petitioner's father went to Bangalore and met the respondent at

Railway station, he behaved disrespectfully and gave a car quotation to the petitioner's father and demanded a new car. On 19.03.2018 the petitioner's parents came to Ranipet to take the petitioner for a few days. The respondent and his family members treated her family members with disrespect. On 25.03.2018, the respondent along with his parents came to Varakalpet to take the petitioner back, they insisted that the petitioner's father to purchase a new car for the respondent. The petitioner's father told them that no such commitment was given by him at any point of time. The respondent's mother insulted her family members, there was a quarrel among them. Thereafter, the respondent attacked the petitioner's brother with car key on his forehead and he sustained grievous injuries and thereafter the respondent was not interested to see the petitioner from then. The respondent and his family members always demanding dowry and illtreated the petitioner. The petitioner cannot lead a peaceful matrimonial life with the respondent because of his status/ego character. The respondent has no real intention to lead matrimonial life with the petitioner. Thereafter, on 05.10.2018, the petitioner filed H.M.O.P No.283 of 2018 before the Family Court, Cuddalore for divorce against the respondent.

3. Per contra, it is the case of the respondent/husband that he has filed a petition on 03.06.2019 for divorce in H.M.O.P.No.93 of 2019 before the Sub Court, Ranipet, stating that he is working at Bangalore, he spent Rs.15,00,000/- for the marriage. In the petition it is further stated that the petitioner's parents on their own will and pleasure offered the Jewels. The respondent and his family members never demanded any jewels, money as dowry. When the respondent called the petitioner to join the martial home, she failed to join him, more than one year the petitioner never came back to run the martial life with the respondent. Thereafter, the petitioner/wife stated, she was not at all interested in this marriage and accepted only on compulsion of her parents.

4. The learned counsel for the petitioner submitted that all the allegations stated by the respondent are false and frivolous. The petitioner has filed a petition under Section 10 (i) of the Hindu Marriage Act seeking divorce from her husband/respondent and the husband/respondent has not shown any interest in taking her back. Further, the counsel for the petitioner contended that the petitioner has filed a petition for divorce before the Family Court, Cuddalore. Therefore, the petitioner prays for transferring H.M.O.P.No.93 of 2019 pending before the Sub Court, Ranipet to the Family Court, Cuddalore to be tried along with H.M.O.P.No.283 of 2018, so that multiplicity of proceedings can be avoided.

5. The learned counsel for the petitioner further submitted that since the petitioner is not employed and has no independent income, she cannot even meet out the travel expenses to attend the Court proceedings at Ranipet and she needs somebody's help to travel a long distance i.e., 5 hrs from Cuddalore to Ranipet and then, return to Cuddalore. He further submitted that, no prejudice would be caused to the respondent if the divorce petition pending before the Sub-Court, Ranipet is transferred to the Family Court, Cuddalore.

6. The learned counsel for the respondent submitted that the respondent is working in Bangalore and on each hearing, he has to take leave for two days and it is very difficult for him to travel from Bangalore to Cuddalore i.e., 600kms. He further submitted that if the cases are transferred to Arani or Cheyyar, it will not cause any prejudice to the petitioner. He also further submitted that the respondent is paying the interim maintenance amount of Rs.5,000/- per month and the cost of Rs.10,000/- as per award passed in I.A.No.539 of 2019 in H.M.O.P.No.283 of 2018 on the file of the Family Court, Cuddalore to the petitioner.

7. The learned counsel for the respondent in support of his submissions has also relied on the following Judgements (i) Judgement of Hon'ble Supreme Court in Anindita Das vs. Srijit Das reported in (2006) 9 Supreme Court Cases 197. (ii) Punjab - Haryana High Court Veena vs Vinay Kumar, Equivalent citations: I (1992) DMC 59 wherein in paragraph

No.11 among other things it is mentioned as under:-

".....The Court is required to adopt a balanced view of convenience of both the parties, of course may be with some premium in favour of the wife. In this case, transfer of the case shall certainly result in inconvenience to the respondent/husband and his material witness if the trial is transferred to a Court at Ferozepur. Even otherwise, a very strong case is to be made out for transfer of the case from an ordinary Court of competent jurisdiction. The parties last resided at Jagadhri and it is only at this place that where a divorce petition is to be filed and tried. The petitioner has miserably failed to make out a case for taking the case out of the hands of a Court of competent jurisdiction at Jagadhri in terms of Section 24 of the Code of Civil Procedure."

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

9. On perusing the records, it is seen that the petitioner and the respondent have filed their respective divorce petitions in different Courts. The respondent filed the petition in his permanent residential address but he was working in Bangalore. On every hearings, he has to travel from Bangalore to the concerned Court. The petitioner/wife is residing at Cuddalore, it will be reasonable and convenient for her, if the case is transferred to Cuddalore. It is 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]

10. Considering the above pleadings and taking note of decisions laid down by the Hon'ble Supreme Court cited supra, this Court is inclined to consider the case of the petitioner. Therefore, H.M.O.P.No.93 of 2019 pending before the Sub Court, Ranipet shall be transferred to the Family Court, Cuddalore.

11. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. The proceedings in H.M.O.P.No.93 of 2019 is withdrawn from the file of the Sub Court, Ranipet and transferred the same to the file of the Family Court, Cuddalore for joint trial along with H.M.O.P.No.283 of 2018. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-

सत्यमेव जयते Assistant Registrar(CS III)

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Sub Assistant Registrar

To

1. The Judge,
Family Court, Cuddalore.

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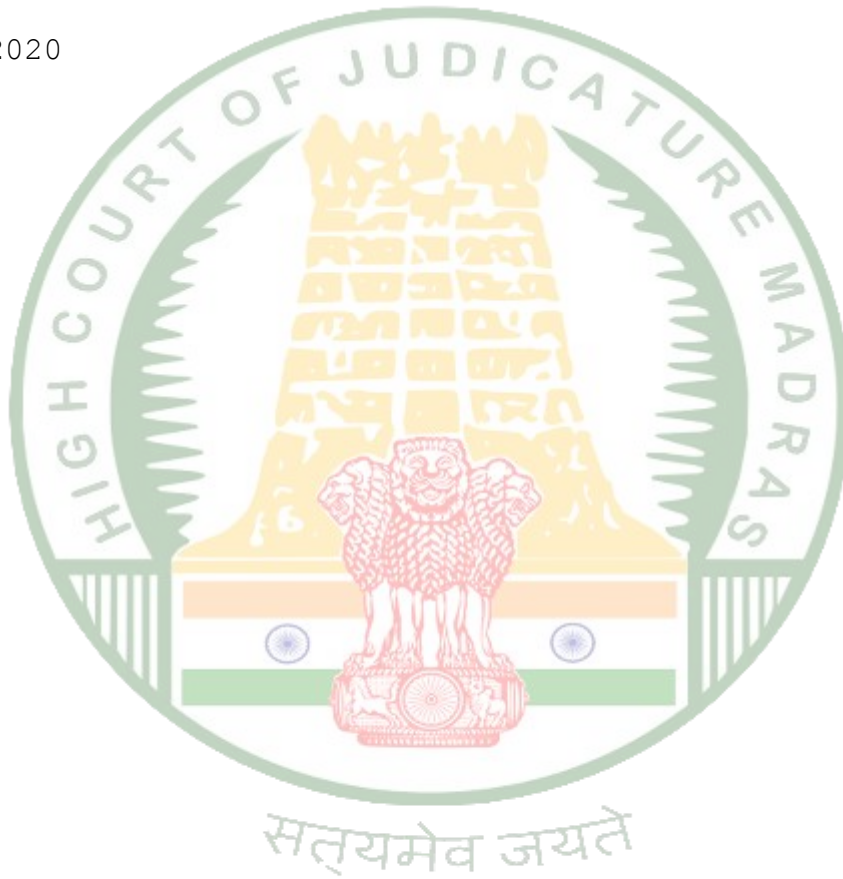
2. The Subordinate Judge,
Ranipet.

+1cc to Mrs.R.Meenal, Advocate sr.99629

+1cc to Mr.K.V.Ananthakrishnan, Advocate sr.100164

TR.C.M.P.No.683 of 2019
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