

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.11.2019

Coram

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr.C.M.P.No.814 of 2019

and

C.M.P.No.22657 of 2019

S.Bavithra @ Nandhini Devi

...Petitioner

Vs.

S.Ilamparithi

...Respondent

PRAYER: Transfer Civil Miscellaneous Petition is filed under Section 24 of Cr.P.C., to withdraw and transfer the petition in FC HMOP. No.2 of 2019, on the file of the Family Court, Ariyalur, Ariyalur District to in O.S.No.5 of 2019 on the file of the Family court, Cuddalore.

For Petitioner : Mr.K.Natarajan

For Respondent : Mr.A.Prakash

O R D E R

This Transfer Civil Miscellaneous Petition has been filed by the petitioner to withdraw and transfer the petition in FC HMOP. No.2 of 2019, on the file of the Family Court, Ariyalur, Ariyalur District to the file of the Family court, Cuddalore, to try along with O.S.No.5 of 2019.

2. The case of the petitioner is that the respondent and the petitioner are husband and wife and both the parties are relatives. While she was attending a marriage function, the respondent had introduced himself as a close relative of the petitioner. At that time, the petitioner was aged about 16 years only and was studying in 10th standard. After few days, the respondent had proposed the petitioner for getting married to her. When the petitioner refused the accepting the same, the respondent had threatened her. After coming to know the acts of the respondent, the parents of the petitioner had warned the respondent. On 10.12.2014, the respondent kidnapped the petitioner and on the same day, he forcefully married her at Arungal Perumal Koil. The parents of the petitioner immediately

lodge a police complaint against the respondent before the Police Station, Kairlabath, dated 11.12.2014. The said police had registered a case in Crime No.181 of 2014 for the offence under Section 366 of IPC. The police officials had handed over her to the custody of the parents on 12.12.2014. On the same day, the respondent and his counsel abused the petitioner with filthy language and brutally assaulted the petitioner's mother and her aunt. Unable to bear the same, they had consumed poison and they were admitted in the Government Hospital. The Inspector of Police, Ariyalur had registered FIR against the respondent and his associates for the offence under Section 147, 294(b), 323, 354 and 506(i) IPC. Due to fear of abduction, the petitioner's father had taken the petitioner to his friend's house at Jayamkondam and made her to stay there. On 01.05.2015, at about 10.00 a.m., the respondent found her there and again, kidnapped the petitioner. The petitioner's father has filed HCP. No.1922 of 2015 before this Hon'ble High Court to produce the petitioner before the Court. On 15.03.2016, the petitioner was produced before this court and at that point of time, she was seven months pregnant. Considering the physical condition of the petitioner, the Hon'ble judge permitted the petitioner's mother to accompany with the petitioner. Thereafter, the petitioner gave birth to a male child. The respondent and his family members threatened the petitioner to withdraw the pending cases against the respondent. On 06.01.2018, the petitioner had informed her brother and lodge a police complaint and left the respondent's house. The petitioner has filed a suit in O.S.No.5 of 2019 before the Family Court, Cuddalore seeking for dissolution of marriage. The respondent has also filed a petition in HMOP. No.2 of 2019 before the Family court, Ariyalur for granting divorce. As the petitioner is a resident of Cuddalore. She seeks transfer of the case in HMOP. No.2 of 2019 filed by the husband to Family Court, Cuddalore.

3. The learned counsel for the petitioner would submit that the petitioner is now residing at cuddalore along with her child in her parental house. For attending the Court, she has to travel around 135 Kms, along with an infant. The petitioner is unemployed and the child, aged about 2 ½ years, is under the care and custody of the petitioner. She is depending upon her parents to meet out her day-to-day expenses and she has to take care of her child also. Therefore, it will be very difficult for her to travel from Cuddalore to Ariyalur for attending the Court proceedings. Hence, the petitioner seeks transfer of the case in HMOP. No.2 of 2019 on the file of the Family Court, Ariyalur to the file of the Family Court, Cuddalore.

4. The learned counsel for the respondent would submit that the respondent is vehemently denying all the allegations made by the petitioner and but he has no serious objection to transfer the case to Family Court, Cuddalore.

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

6. It could be seen from the records that the petitioner and the respondent have filed two different petitions i.e. the case in HMOP. No.2 of 2019 pending on the file of the Family Court, Ariyalur and O.S.No.5 of 2019 on the file of the Family Court, Cuddalore for divorce.

7. Considering the convenience of the parties and in order to avoid conflicting judgments, this Court is inclined to transfer the petition from Family Court, Ariyalur to Family Court, Cuddalore.

8. Accordingly, the petition HMOP. No.2 of 2019 pending on the file of the Family Court, Ariyalur filed by the husband is withdrawn and transferred the same to the file of the Family Court, Cuddalore, to be tried along with the suit in O.S.No.5 of 2019 filed by the petitioner/wife.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judge, Family Court, Ariyalur.
2. The Judge, Family Court, Cuddalore.

+lcc to Mr.K.Natarajan, Advocate Sr.No.97874

AKM/10.01.2020 /3P-4C/
AKM/03.02.2020

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