

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2019

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Tr. CMP No.726 of 2019  
and  
CMP No.20471 of 2019

D. Mohana @ D.Mohanambal ... Petitioner  
.Vs.  
A. Nehru Dass ...Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of CPC, praying to withdraw HMOP No.83 of 2019 pending on the file of the Hon'ble Family Court, Villupuram and transfer the same to the Hon'ble Subordinate Court, Chidambaram.

For Petitioner : Mr. D.Amalraj

For Respondent : Mr. R. Arun Dattan  
for C. Munusamy

ORDER

The petitioner/wife has filed the Transfer Civil Miscellaneous Petition in Tr. CMP No.726 of 2019 seeking for the withdrawal of HMOP No.83 of 2019 pending on the file of the Hon'ble Family Court, Villupuram and to transfer the same to the Hon'ble Subordinate Court, Chidambaram.

2. The case of the petitioner is that she got married to the respondent on 03.06.2013 at K.S.R. Chakrapani Chettiar Thirumana Maaligai, Panrutti as per the Hindu rites and customs, which is an arranged marriage. The petitioner's family had given 15 sovereigns of gold ornaments and 5 sovereigns to the respondent and household articles worth about 2.5 lakhs and a motor cycle worth about Rs.65,000/- to the respondent as dowry at the time of marriage. The petitioner and the respondent were living at Olliyam Palayam, Sendanadu Post, Ulundurpet Talik, Villupuram District as a joint family along with respondent's parents, his brother's family and sister. From the date of marriage, the respondent did not show any interest to lead the matrimonial life happily and always finds fault with the petitioner in each and every petty issues and created problem unnecessarily due to the ill advice of his family members. As the respondent was working as an Armed Force Police Constable at Chengalpattu, he

was not coming regularly to the house and only returns home at late night. The petitioner submitted that she was demanded to get money from her parents by the family members of the respondent and the respondent had not shown any interest to have physical relationship with her by saying one or the other reason and she came to know that he has some problem in having relationship with her. Since the petitioner refused to the demand of the respondent's family to get the sister of the respondent married to the petitioner's brother, they started treating her badly and they did not allow her to have any peaceful life. They also commented on her appearance and that was stated to be the reason by the respondent for not willing to have any physical relationship. The respondent on 28.12.2013 went for treating his defects at Devaki Hospital, Villupuram, and the petitioner submitted that she was forced to set up separate matrimonial home at Villupuram. The respondent never paid any money to the petitioner for her basic necessities and she always depend her parents. The respondent always used to go for night duties with an intention to avoid physical relationship with her. She further stated that both of them took medical check up at Balachandra Hospital, Villupuram, and even though the problem was with the respondent, she was forced for undergone IUI treatment by the respondent and the same was unsuccessful for which the respondent's family abused her emotionally, verbally and she suffered physical and mental agony which cannot be explained in words. The petitioner came to know that the respondent is having affair with some other woman by name Madhavi. The respondent did not stop the relationship with the lady and continue his illegal affairs. The respondent also had affair with the petitioner's cousin. Due to the misconduct of the respondent, memo was issued to the respondent by the higher officials and they also directed the respondent to vacate the police quarters. Since the petitioner had informed the same to the respondent's family, the respondent attacked her, due to which she had severe bleeding and was admitted in the hospital. Hence left with no other option, the petitioner filed a complaint before the AWPS, Villupuram, and the said complaint was forwarded to the Protection Officer, Social Welfare, Villupuram. Thereafter, the respondent appeared before the Protection Officer for three times and informed that he is not willing to live with the petitioner and the respondent also threatened her to withdraw her complaint and forced her to sign in some papers which are unfilled and he also threatened her that he would commit suicide by leaving a suicide note wherein he would name all her family member. Hence, the petitioner filed a complaint before the Superintendent of Police, Villupuram. They also called the respondent for enquiry and for that the respondent had informed that he was admitted in GH in the attempt of committing suicide. No action was taken against the respondent by the police department. In the meanwhile, the respondent has filed a petition Under Section 9 of the Hindu Marriage Act, 1955 for Restitution of Conjugal Rights in

HMOP No.83 of 2019, which is pending on the file of the Family Court, Villupuram, in order to escape from the clutches of law and from the Domestic Violence Petition and she submitted that she had faced several bad experiences with the respondent/husband which cannot be said in words. The respondent/husband did not treat the petitioner neither as wife nor as a women and she has no intention to face the same experience gain.

3. The petitioner/wife submitted that she is residing at Thatchakadu, Bhuvanagiri Taluk, Cuddalore District and it would be difficult for her to travel from Thatchakadu to Villupuram which is about 77 Kms away and it will take 3 hours to reach Villupuram and she is still taking treatment for her ear problem which was damaged when the respondent had beaten her and for the other ill health at Chidambaram and she also apprehends that the respondent's family members will go to any extent to harm her in view of their past conduct and she feels it will not be safe for her to travel to Villupuram as it is the birth place of the respondent and still he is working in the police department. She also submitted that her parents are aged persons and hence she prays for withdrawing the HMOP No.83 of 2019 filed by the respondent on the file of Family Court, Villupuram and to transfer the same to the file of the Subordinate Court, Chidambaram.

4. Notice was served on the respondent. The respondent's counsel Mr. R.Arundattan submitted that, it will be convenient for both the parties if the matter is tried at Cuddalore District Court itself.

5. The petitioner and the respondent's counsel submitted that the matter can be tried at Family Court, Cuddalore, instead of Subordinate Court, Chidambaram, which will be convenient for both the parties to attend the same.

6. In view of the apprehension of the petitioner, this Court of the view that HMOP No.83 of 2019 filed by the respondent in the file of Family Court, Villupuram, can be withdrawn and transferred to the Family Court, Cuddalore to facilitate the petitioner to appear before the said court without any fear. Accordingly, HMOP No.83 of 2019 filed by the respondent in the file of Family Court, Villupuram, is withdrawn and transferred to the Family Court, Cuddalore. Accordingly, the Family Court, Villupuram, is directed to transfer the HMOP No.83 of 2019 to the Family Court, Cuddalore, within six weeks, from the date of receipt of a copy of this order.

7. The respondent/husband is directed to maintain discipline in the court premises and not to endeavour in any kind of activities which will harm the petitioner/wife.

8. Accordingly, the Transfer Civil Miscellaneous Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Judge,  
Family Court, Villupuram.

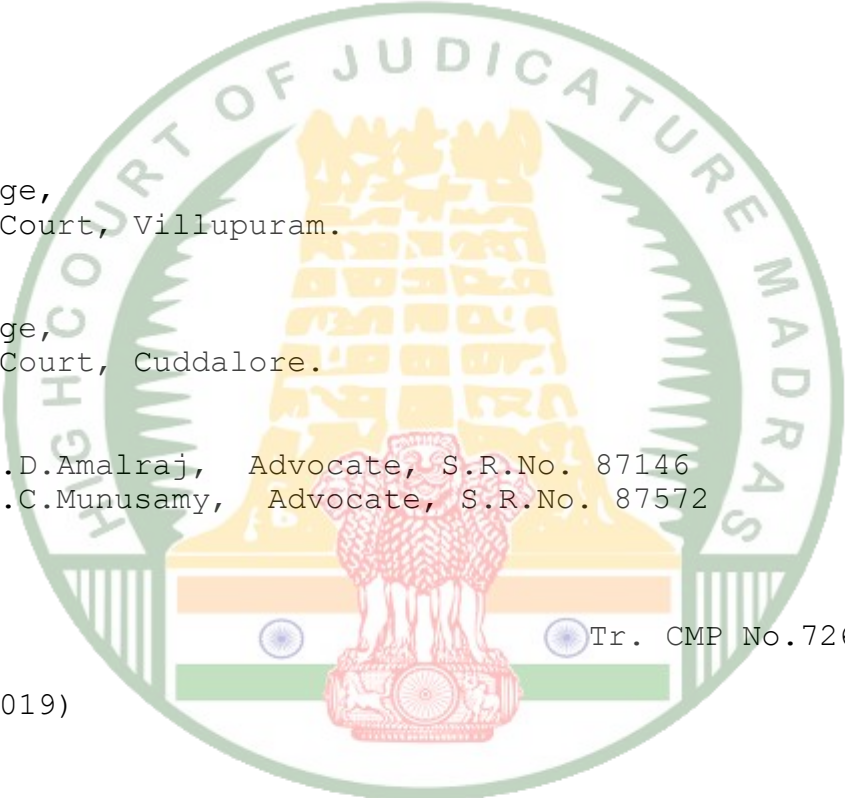
2. The Judge,  
Family Court, Cuddalore.

+1cc to Mr.D.Amalraj, Advocate, S.R.No. 87146

+1cc to Mr.C.Munusamy, Advocate, S.R.No. 87572

SV(CO)  
GN(02/12/2019)

Tr. CMP No.726 of 2019



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