

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

TR C.M.P. No.732 of 2019
and
C.M.P.No.20621 of 2019

B.N.Jeevitha

... Petitioner

Vs.

V.Dhanesh

... Respondent

PRAYER: Transfer Civil Miscellaneous Petition filed under Section 24 of C.P.C., to withdraw the petition in MOP. No.433 of 2019, on the file of the Family Court, Pondicherry and transfer the same to the file of the VI Additional Family Court, Chennai.

For Petitioner : Mr.P.Manikannan

For Respondent : Mr.J.Zeakumar

For Mrs.Achari & Antony Associates

O R D E R

The Transfer Civil Miscellaneous Petition has been filed seeking to withdraw the petition in MOP. No.433 of 2019, on the file of the Family Court, Pondicherry and transfer the same to the file of the VI Additional Family Court, Chennai.

2. The case of the petitioner is as follows:

The petitioner and the respondent are the husband and wife. The marriage was solemnized between them on 12.09.2010 at Dharmaprakash Thirumana Mandapam, Purasaiwalkam, Chennai as per Hindu Rites and Custom. In the lawful wedlock, a female child viz., Karunya was born on 19.03.2012. After the marriage, the couples were living together in the matrimonial house at Puducherry. The in laws were demanding dowry from the petitioner's parents. The respondent also never acted as a dutiful husband. The respondent is working as waiter in ship. When the respondent went to ship, the respondent's parents forced the petitioner to send out from the matrimonial house. During the pregnancy time also, the respondent and his family members caused cruelty to the petitioner. The respondent used to quarrel with the petitioner without any valid reason by using filthy language. On several occasions, the respondent and his

family members insulted the petitioner and also attacked her. Having no other option, the petitioner left the matrimonial home. After intervention of the petitioner's parents, the respondent was living together with his wife at her parental home. Thereafter, the petitioner and the respondent have purchased the property in Mangadu in joint name. For the same, the petitioner and the respondent have obtained loan from Union Bank of India, Mannady Branch and also the petitioner handed over 40 sovereigns of jewels to the respondent and the same was sold. Subsequently, on the ill advice of his parents, the respondent has not repaid the loan. Due to which, notice was issued to the petitioner and the respondent by the Bank under the SAFEASSI Act. Thereafter, the respondent deserted the petitioner and his child. Therefore, the petitioner has filed a maintenance case in M.C.No.397 of 2018 before the VI Additional Family Court, Chennai. As a counter blast, the respondent has filed a divorce petition in MOP. No.433 of 2019 before the Family Court, Pondicherry. The petitioner is the resident of Chennai and she seeks transfer of the divorce petition filed by her husband in MOP. No.433 2019 to the file of the Family Court, Puducherry.

3. The learned counsel for the petitioner/wife would submit that the respondent is working in ship and earning a sum of Rs.1,00,000/- per month. Despite having sufficient means, he neglected to spend money to his wife and child. Hence, the petitioner has filed a maintenance case. The petitioner is staying in her parental house. The child is under the care and custody of the petitioner and the child is going to school. The petitioner is unemployed and she is depending upon her aged parents for her livelihood and education expenses of the child. However, the petitioner could not travel alone from Chennai to Puducherry to attend the Court proceedings. Therefore, it will be appropriate to transfer the maintenance case filed by her husband from Puducherry to Chennai.

4. The learned counsel for the respondent/husband would submit that the respondent has denied all the averments made by the petitioner and submitted that the same should not be made against him in the proceedings pending before the trial Court and he has no serious objection to transfer the case to Chennai.

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

6. Considering the convenience of the petitioner and physical hardship caused to her, this Court is inclined to transfer the case from Puducherry to Chennai. Accordingly, MOP. No.433 of 2019 on the file of the Family Court, Pudhucherry is

withdrawn and transferred to the file of the VI Additional Family Court, Chennai. However, it is made clear that this Court is not inclined to deal about the merits of the avernments in the transfer civil miscellaneous petition.

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

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

rli
To

1.The VI Additional Family Court, Chennai.

2.The Family Court, Puducherry.

+1 CC to Mr.P.Manikannan, Advocate sr 91407.

TR C.M.P. No.732 of 2019
and
C.M.P.No.20621 of 2019

AK(CO)
SP(21/01/2020)